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AUTHOR Galvin, John J.; And Others
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ABSTRACT

The fourth volume in a series of publications on alternatives to jail incarceration, this booklet deals specifically with problems of sentencing the misdemeanant. It is written primarily for judges and those who assist them in arriving at and implementing sentences, so it presents a broad range of options and discusses ways of implementing them. Consideration is also given to rationales for their use based on contemporary practices and recommendations of various commissions, organizations, and criminal justice scholars. A number of novel dispositions are cited to demonstrate that the sentencing task can be approached creatively, rather than being shackled by a limited set of stereotyped options into which defendants are pigeonholed. (Author/BP)

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INSTEAD OF JAIL

pre-and post-trial alternatives to jail incarceration

VOLUME 4

SENTENCING THE MISDEMEANANT

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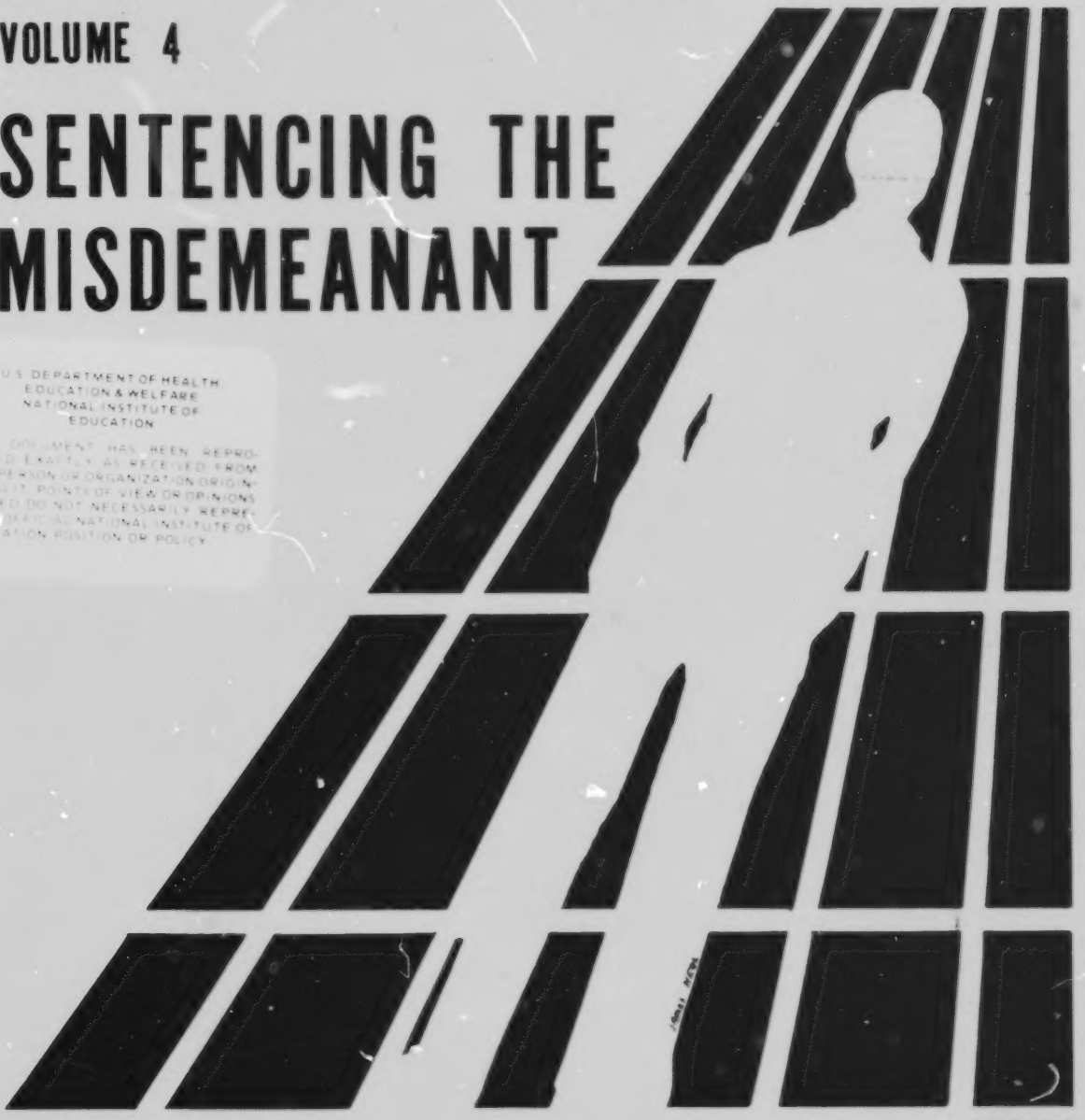

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INSTEAD OF JAIL:

pre-and post-trial alternatives to jail incarceration

VOLUME 4

SENTENCING THE MISDEMEANANT

JOHN J. GALVIN, PROJECT DIRECTOR
WALTER H. BUSHER, ASSOCIATE DIRECTOR
WILLIAM GREENE - QUIJANO
GARY KEMP
NORA HARLOW
KATHLEEN HOFFMAN

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INTRODUCTION TO VOLUME 4

Confronted with a person found guilty of a misdemeanor crime, a judge today may have an almost bewildering array of choices in making his disposition. Not long ago - and in some jurisdictions still - this was not the case. The options were pretty much limited to a jail sentence, a lump sum fine, or a suspended sentence.

In preparing this publication project staff assumed that judges and those who assist them in arriving at and implementing sentences are interested in alternatives to jail. The purpose of this volume is to review a broad range of options and discuss ways of implementing them. Consideration also is given to rationales for their use based on contemporary practices and recommendations of various commissions, organizations, and criminal justice scholars.

Philosophical and policy issues are discussed rather cursorily, with emphasis on practical implications of differing views. To the extent that available data permit, facts and figures are presented which should be useful in assessing the appropriateness and wisdom of choosing various dispositions under given circumstances.

By alternative dispositions is meant alternatives to "traditional jailing"--that is, a <u>flat</u> sentence to be served in a jail, where prisoners remain in 24-hour custody of a law enforcement or corrections agency.

Possible alternatives to this arrangement are indefinite in number and extremely varied in nature. The range is from unconditional discharge to a term of confinement modified in any of several ways, e.g.: intermittent service of sentence ("weekend"); "partial confinement" (work or study release); confinement

until paroled or otherwise given early release to supervision; confinement in a non-criminal justice facility where emphasis is on rehabilitation rather than custody.

Chief interest of this project has been in alternatives not involving confinement, but modifications in confinement practices also received attention.

Non-incarcerative dispositions include unconditional discharge, suspended judgment or sentence, fine, court costs, restitution, and probation. Provision for paying monetary assessments in installments has come into frequent use. In recent years, along with or in lieu of fines and restitution through money payments, the performance of services may be required (or permitted), such as volunteer work for public or private community agencies. Another kind of requirement might be participation in educational or therapeutic programs aimed at a condition contributing to the offender's crime -- e.g., limited employability, alcoholism, drug abuse, harmful driving habits, ignorance or thoughtless disregard of certain laws, etc. Restitution, community service, installment fines, and rehabilitative programs, commonly, are conditions of a deferred or suspended sentence or probation.

The relative freedom of judges to "tailor" sentences to individual situations appears to be extensive, judging by the variety and novelty of dispositions which have been reported. There is great variation in the specifics of conditions and arrangements. Ingenuity and success in mobilizing community resources can be productive of sentences and sentence conditions uniquely fitting the problems, needs, and merited punishment of particular offenders. Some of the practices encountered in this study demonstrate that the sentencing task can be approached with creativity, rather than being shackled by a rigid, limited set of stereotyped options into which defendants are "pigeonholed."

CHAPTER I

ISSUES IN SENTENCING

A lower court judge may try a contested parking violation charge today and be faced tomorrow with sentencing a chronic offender whose armed robbery charge was plea bargained to simple assault.

Consider this array of accused or convicted persons who are dependent on his sense of justice and fairness, his wisdom, and his knowledge of law and of community resources:

> A young man who has received his tenth citation in a year for serious traffic violations, the instant one including operation of a vehicle while license is suspended;
>
> A deteriorated alcoholic arrested for public drunkenness;
>
> An affluent, politically influential professional man charged with driving while drunk;
>
> A young man, divorced and unemployed, heavily in debt, who is failing to make court-ordered child support payments to his first wife;
>
> A youth found in possession of some marihuana cigarettes;
>
> An elderly woman, dependent on social security, arrested for shoplifting for the third time in a year;
>
> A man up for the second time for assaulting his wife;
>
> Two young men involved in a gang fight during a recent "rock concert" in a local park;
>
> A con man charged with a series of petty "bunco" operations;
>
> A "welfare" mother accused of fraud.

Any one of these cases could be the subject of a scenario to illustrate some of the many issues involved in court disposition of misdemeanant charges. The last one, for example:

The mother of three children is on welfare. Her husband is out of the picture. She is in court for welfare fraud--having repeatedly failed to report occasional small earnings, from "day work." She is a poor manager and has resisted efforts of case workers to persuade her to use help in budgeting and making the wisest use of her welfare grant. Although potentially employable on a regular basis, she has been reluctant to undergo training and seemingly unable to make stable arrangements for child care.

The judge wants to convince her that further welfare cheating is unacceptable. He would also like to serve notice on other welfare clients that fraud is seriously regarded. At the same time he is sympathetic toward her and her children.

A fine in such a case would make little sense. Thirty days in jail might prove a deterrent for her and possibly some others. At the same time the dollar costs of jailing her and of child care in her absence would be very high; not to mention the incalculable costs of disrupting the family. In the background also is the issue of fairness: do we put an impoverished mother in jail for a $50.00 fraud and impose a fine or restitution on a well-off offender guilty of a major property crime?

Performance of community service, in lieu of jail, might have a deterrent effect and would afford some benefit to the community, perhaps enough to offset the small costs associated with this disposition.

Six months on probation might prove a deterrent and might also be used to enforce a condition that the defendant enroll in some

appropriate training or counseling program. Or, rather than using criminal sanctions to force a particular solution of her problem, this might be left to the judgment and guidance skills of the probation officer and others he might involve in the treatment effort.

A less costly alternative to this would be a suspended sentence with the condition that the defendant work things out with the welfare department case worker's help--with monitoring of her compliance and progress left to the welfare department. Since the welfare department must maintain contact with her in any event, this arrangement would avoid the costs of duplicate supervision. Whether welfare would agree to undertake such a probation-like role would of course need to be ascertained.

Considerations in Sentencing

Selecting the optimal disposition in sentencing misdemeanants may be a simple matter in some situations--imposition of a small, lump sum fine where a defendant of average or better means is guilty of some minor violation or perhaps suspending a fine in the case of a first offender whose apparent intent was not evil and who seems unlikely to offend again. But very often the judge confronts more complex situations, has to weigh purposes carefully, consider several possible options, and may require assistance in the way of a presentence investigation or postsentence services.

The purpose may suggest an appropriate penalty or certain conditions which the defendant should meet. The question then arises of successful implementation--how to assure that the penalty will be paid or the conditions met.

Penalties are essentially of two sorts--either the defendant gives up his liberty for a time (e.g., jail sentence); or he pays in some other way (fine,

restitution, community service). As to conditions, a universal one is avoidance of further crime. Other conditions are of two kinds: restrictions thought necessary to prevent repetition of crime (restrictions on mobility, associations, or activities which are not criminal but are likely to lead this defendant to a criminal act); participation in a program to modify a problem thought to have occasioned this defendant's criminal behavior (alcoholism, drug addiction, mental health problems, limited employability, tendency to idleness or nomadism, neglect of obligations or poor financial management, dangerous driving habits, ignorance of the law, etc.).

Assuring successful implementation of the penalties and conditions of a sentence may involve any or all of three functions: (1) control measures; (2) client services; (3) a sanction (that is, what will be done if the defendant does not comply).

There is one further consideration. A sentence ordinarily represents an allocation of public resources--space in the jail, probation officer's time, perhaps some expensive care or treatment service. To the extent that there is a choice among options, which promises equal benefit for less cost?

Sentencing Purposes

The most heated controversies around sentencing laws and practices relate to crimes involving actual or potential physical harm to victims, major property losses, or serious betrayal of trust by public officials or other community leaders. Controversy also surrounds treatment of categories of major offenders variously termed dangerous, professional, or habitual. Literature on sentencing tends to focus in these areas--since this is where the most crucial policy and individual case decisions lie. The choice of lengthy confinement in the state penitentiary vs. a penalty not involving imprisonment has obvious dramatic elements.

Sentencing misdemeanants does not involve such extreme choices or, in most instances, major offenses or offenders. Still the practice occurs within the same legal and philosophical framework as the sentencing of felons. The same kind of considerations enter into the choice of options, although there is wider latitude in the nature and use of alternatives with the less serious offenders.

The first consideration in sentencing, logically, is the purpose to be served. For example:

- Punishment
  - Retributive
  - Deterrent
    - General (deter others)
    - Specific (deter the defendant)
- Incapacitation (protect community)
- Reparation
  - Victim-Oriented
  - Community-Oriented
  - Offender-Oriented ("symbolic" or token restitution)
- Rehabilitation

A thoughtful review of the outline makes it evident that the purposes--while diverse and potentially conflicting--overlap substantially. Making reparations entails a punishment. Incapacitation is experienced as punishment by the offender. By the same token, incarceration for punitive purposes also incapacitates.

Specific deterrence, offender-oriented reparations, and rehabilitation all aim at diverting the offender from further crime. They represent, of course, rather different theories as to how this is to be accomplished. In any event, if a judge has particular objectives in mind, he is more likely to lean toward one type of option than others, as is reflected in Figure 1.

Figure 1. Effect of Purpose on Choice of Sentence Option

Purpose of Sentence	Option(s) Likely to be Favored				
	Incar-ceration	Resti-tution	Fine	Community Service	Pro-bation
Punishment	X		X		
Incapacitation	X				X(a)
Reparation					
Victim-Oriented		X			
Commun.-Oriented			X	X	
Offender-Oriented		X(b)		X	
Rehabilitation				X(c)	X

(a) Probation with strict conditions and very close surveillance or some highly structured programs.
(b) Where more weight is placed on rehabilitative effects and the offender's ability to pay than full compensation for the victim.
(c) Some judges use community service as much because of assumed rehabilitative value as for purposes of reparations.

Contemporary Theories

Increasingly, criminal justice scholars are arguing against allowing rehabilitative considerations to dictate the length or restrictiveness of sentences. Their case has two aspects: (1) in justice, any deprivation of liberty must be based strictly on the circumstances of the crime; (2) research to date has produced too little evidence that coerced rehabilitative measures are effective. People under sentence should have access to rehabilitative services, but their need for these should not affect how much control is imposed on them--or for how long. This should be clearly justified by the crime of which they stand convicted.

Other authorities, while accepting the argument as to rehabilitative objectives, favor going beyond the facts of the instant offense in passing sentence. They would take into account evidence as to a need for community protection--and impose a greater penalty than the crime might ordinarily call for if the risk of repetition appeared high.

Such decisions usually relate to length of prison sentences for major offenders. But the issues intrude into such matters as the use of special conditions or probation supervision with less serious offenders. Where these are in lieu of a substantial jail sentence for some moderately serious crime, they would not conflict with the notion of limiting the penalty to what is clearly just. Moreover, if special conditions and supervision appear necessary to assure that installment payments are made on restitution or an appropriate fine, there would appear to be no conflict as long as these measures are terminated when payments are completed.

The use of restrictive measures, in excess of what the instant crime might call for, as a matter of community protection, might be difficult to justify with most misdemeanant offenders. An exception might be where an original more serious charge was reduced through plea bargaining and the defendant's prior record affords good evidence that he has been a chronic felony offender.

Use of some of the sentencing options considered in chapters which follow will involve confronting these issues one way or another, and the effort is made, throughout, to be sensitive to them. In the final analysis, statutes, as interpreted by the sentencing judge, will determine what theory is applied. Certainly judges and other criminal justice officials involved in sentencing decisions--as well as officials responsible for legislating in this area--should be abreast of literature in the field. While not attempting to summarize all of it, we have listed numerous books, monographs, and articles in Appendix A and discussed these in relation to key issues in sentencing and historical developments in the administration of criminal justice.

Benefits and Costs

In recent years many theories and techniques originating in the private business sector to help in policy decisions have been adapted to public policy

planning. Cost-benefit theory and methods of applying this in governmental planning, budgeting, and decision-making represent one such transfer of technology. Systematic, detailed application of this theory in criminal justice practice would entail availability of extensive data and use of complex and sophisticated concepts and procedures. Efforts to this end are in their infancy. Nevertheless the general idea behind the theory affords a useful framework within which to consider both policy issues and individual case decisions.

This is simply a matter of asking what is to be gained by a particular practice, in general or in particular situations? Who will benefit? What will it cost? Who will pay (or suffer a loss)? One advantage of cost-benefit theory is that it causes us to be more thoughtful than we might otherwise be in considering these questions. Ordinarily we may not even stop and ask them explicitly.

It should be kept in mind that cost-benefit theory, while perhaps adding to the rationality of the sentencing process, can be of only limited help at this time. The paucity of truly helpful research, the difficulties of getting needed statistics, and the rudimentary nature of cost accounting in most criminal justice agencies, all conspire to frustrate any present effort to use this method with anyting approaching precision. But the adoption of this approach could mark the beginning of improvements in recording and processing information, which one day may permit sounder planning in the field and perhaps more accurate decisions in carrying out policies.[1]

Costs/Benefits of Jail Sentences. The most evident potential benefit of a jail sentence is temporary relief for the community from continuing crime by the offender, assuming he is given to frequent violations and cannot otherwise be deterred or constrained.

Evidence is lacking or inconsistent as to the propositions that jail sentences reduce recidivism or deter others from crime, so there is no firm basis for assuming that such benefits result from use of jail sentences. By the same token, evidence is inconclusive as to the long-range effects on recidivism of alternatives to jail. Research has been spotty and results have not been consistent. Thus we have not stressed this factor in assessing either jail or its alternatives.

In our field visits we were told in a number of places that alcoholics, some drug dependent persons, and other homeless and needy persons, charged with minor crimes, were jailed at times rather than diverted or put on probation--because this was the only way to provide the protective care and custody they needed to assure survival. The community had failed, to date, to come up with sufficient resources within health, welfare, and other human service systems to provide for them.

In light of current trends toward decriminalization and use of diversion in the area of "victimless" crimes, the practice of jailing these people may prove to be a disappearing vestige of an older order. Unquestionably, such social problems as alcoholism and drug addiction do call for services and facilities that somehow need to be provided. Precipitate elimination of this responsibility from the tasks of criminal justice without prior development of alternative arrangements and resources can result in increased human suffering and some preventable deaths. For the present, in many communities, the benefit of protective care for such people is associated with the cost of undergoing a jail sentence.

Another reason put forward for use of jail sentences (a benefit, that is) is as a "last resort" sanction to enforce the conditions of alternative dispositions. If, after various efforts at motivation, a person refuses to pay

a fine or restitution, perform community service, report to a probation officer, or avoid repetition of his offenses--the original disposition has not worked. In such cases, a jail term may be the only way of asserting community standards, maintaining the integrity of the criminal justice system, and possibly convincing such an individual that he ought to consider changing his ways.

The costs of jailing are high, as is developed more fully in Chapter III, Volume 5. In some cases there are other costs to the taxpayer and the economy besides those of jail operation: where the prisoner would otherwise be working, supporting his family, paying taxes, and perhaps making reparations for his offense by paying off a fine, court costs, or restitution.

There are also other kinds of costs to be considered. Few jails are healthy places in which to spend weeks or months of one's life. Some are downright hazardous, others simply debilitating. Comparatively few offer much in the way of activities and services which permit and encourage prisoners to use their time to prepare for the challenge of returning to community life.[2]

If a goal of the sentence is social restoration of the offender, a jail sentence ordinarily is a less than appropriate disposition. As a form of reparation, while it penalizes the offender, it does not benefit the victim and it has costs for the community. In other words, other than as an expedient in certain protective custody cases, the benefits of jailing lie in punitive effects and short-run incapacitation. Both monetary and intangible costs tend to be high.

Costs/Benefits of Alternatives. Alternatives to jail or to traditional jailing vary greatly in nature and also in benefits and costs. There are differences also in who benefits and who pays. Out-of-pocket costs for the community depend on three circumstances:

(1) The extent of publicly provided control and/or care involved. The range can be from none at all, through close supervision in the community, to 24-hour custody and care in an expensive treatment facility.

(2) The nature and intensity of services provided to the offender. Again these can range widely from none at all to quite expensive vocational training programs.

(3) Costs to the community and victims if the defendant violates conditions or reverts to crime while in the alternative program.

Costs for the offender can include payment of fines, restitution, or fees for services, donation of time and talent to community service, or partial loss of his liberty as a result of sentence conditions.

Benefits are of many sorts and may include:

(1) For the offender. Opportunity to enjoy more freedom and opportunities and incur less stigma than a jail sentence would involve; in some instances, help in overcoming some problem or handicap which has lessened his employability and/or occasioned difficulties with his family or neighbors and figured in his conflicts with the law.

(2) For victims (with certain dispositions). Compensation for losses and possibly damages suffered as result of the offender's crime.

(3) For the community. Compensation, in some instances, in the form of fines, court costs, or community services performed by the offender--plus such benefits as will accrue if the offender is gainfully employed, meeting his obligations, paying taxes, and avoiding further crime.

The Problems of Over-Reach and "Add-Ons"

Not unrelated to the question of costs and benefits is the fact that there are hazards of over-extending the reach and resources of criminal justice as new alternatives emerge. Innovative options may be used not as alternatives to

jail, but as alternatives to unconditional discharge or suspended sentences. This may be appropriate in some cases, but often it represents questionable use of limited public resources.

There is also the "add-on" problem. Where previously a fine was imposed, the court may now provide for an extended period of supervision and restitution or community service in addition to the fine.

The issues here relate both to possible use of unduly punitive or restrictive practices and to cost-effectiveness. These need to be addressed openly and fully whenever a significant new option is under consideration in a jurisdiction. If its purpose is to provide something better than jail, there should be policy agreement to use it for cases where a jail sentence would ordinarily have been imposed. If purposes of different options are clearly spelled out, there should be less likelihood of redundancy in penalties and conditions.

Sentence as Action Framework

The sentence establishes a framework for corrective action. This may involve a quite simple "program"--e.g., a lump sum fine, requiring the defendant to make reparation to the community and intended also to deter him from repeating the offense. Other sentences may entail a complex of penalties, controls, services, and sanctions. Creating the most appropriate and effective corrective framework for a particular individual is often an intricate process. Under the judge's leadership and ultimate authority, several participants may be involved--the prosecutor, defense counsel, the defendant, the victim, a probation officer, and possibly a representative of some community resource agency.

Sentencing always involves "classification." That is, certain determinations are made as to the seriousness of the crime and the defendant's culpability;

the defendant's propensity for committing further offenses or attempting to evade penalties or conditions; any special problems that increase such propensities and an assessment of his ability and desire to use help in solving or better coping with these. Paralleling the assessment of the offender is the consideration of resources that might be drawn on to deal with any problems he presents. Choosing the sentence is a matter of matching the offender with an appropriate mix of penalties, conditions, and resources.

Rational sentencing can be facilitated by two measures: alternative program development and provision for presentence investigation.

Program Development

Certain kinds of problems show up frequently in presentence studies of misdemeanant defendants.* Rather than custom tailoring a disposition in each case, it is economical to mobilize resources and establish routine procedures in order to produce more or less standardized programs for selected categories of offenders. The appropriate program or optional features of different programs can then be adapted to the unique characteristics and needs of particular defendants.

Examples of programs would include:

> Reparations program: a system for assuring that monetary payments (installment fines, court costs, or restitution) are made or that community service or other assigned tasks are performed.
>
> Alcoholism programs: a network of facilities and services that can be drawn on to assist defendants with serious drinking problems, including arrangements for diagnostic services to assure referral to the most appropriate resource.
>
> Drug-Dependency programs: similar arrangements for persons dependent on drugs.

* For a summary of data on the offenses and selected characteristics of persons dealt with in lower courts, see Appendix B.

Drunk Driver programs: educational program designed to modify attitudes and habits associated with this offense. May involve use of diagnostic services and referral for alcoholism treatment.

Family-related programs: programs designed to deal with problems of family conflict, child abuse, non-support, welfare fraud, family financial management, etc.

Employment/Vocational programs: programs to deal with various kinds and levels of problems in relation to jobs, careers, and employability.

In addition to differences in content, programs can be varied as to the kind and amount of "structure" they entail. Structure has to do with how much effect the program has on the daily life of the offender. This ranges from very little (e.g., probation with minimum supervision and no special conditions) to massive, as where the sentence provides a condition of participation in an intensive residential treatment program.

Several examples of programs of the kinds outlined above are presented in later chapters of this publication. For the most part these describe programs in operation in various jurisdictions at this time. In some instances, model programs are described which combine elements from several different programs or which represent ideas rather than actual contemporary practice.

Presentence Investigation

A community cannot expect its judges to be social investigators, diagnosticians, and community resource mobilizers as well as lawyers and ministers of justice. Yet social service skills and tasks often are necessary in determining an appropriate sentence. The judge should not have to spell out specific activities and services, but where he has certain objectives in mind, he will want to impose a sentence which facilitates implementation of an appropriate program. To this end he needs to know what is feasible and practical within the framework of available sentencing options. The presentence report should assist with this

through its assessment of the individual and summarization of relevant arrangements which can be implemented, given one or another type of sentence.

As a minimum standard, presentence service should be available in any situation where a sentence to prison or jail is under consideration. Ideally, at least minimal presentence screening services should be available before final judgment and sentence of any convicted offender.[3] In more complicated situations involving restitution, the possibility of a heavy fine, probation, or incarceration, the court requires more detailed and more fully substantiated information.

Presentence reports can range from brief oral statements based on a single interview with the defendant, review of official reports, and a few telephone calls to diagnostic studies developed over a period of weeks by a team of specialists. Alternative plans proposed to the judge may vary from a general proposal to an arrangement between the client and a resource agency, fully completed and ready to implement if the court approves.

The time and effort put into presentence investigation and planning is conditioned by several factors:

The level of penalty which can be imposed.
The notoriety of the case.
Preliminary indications of possibility of absconding or reverting to crime.
Preliminary assessment of other special problems such as addictions, vocational handicap, unusual family stresses, serious emotional disturbances, or mental retardation.
The interest of the defendant in exploring his problems and seeking possible sources of help.
Whether or not reparations appear to be in order and the form this should take.
How much assistance or supervision will be needed to assure compliance with whatever conditions are imposed.

In one project observed, the court services unit (of the county probation department) undertook responsibility for screening all defendants prior to sentencing and determining the level and type of presentence work-up indicated. Where this could not be accomplished by the date set for sentence, the situation would be explained to the court and a continuance requested. The plan was not fully implemented, but the concept seemed to be a good one.

In a jurisdiction with an active pretrial release agency, its records may well contain much of the information needed for a minimal presentence report, suitable in many misdemeanant cases. The same would apply to the records developed in some jails in the case of persons detained for trial.

Purpose and Content. Presentence reports may be limited to answering certain specific questions which concern the court, related, for example, to the defendant's culpability and mitigating circumstances; his past criminal record; a restitution amount and payment arrangements that will be feasible for the defendant; such a matter as whether he can return to military service or, in the case of an alien, whether he is to be deported; whether a defendant's proposed residential and employment arrangements are realistic; or whether he needs and will be able to obtain some special treatment or training service.

As a matter of fact, presentence reports should always be clearly focused on those issues which are germane to the court's task of making an appropriate disposition in the case at hand. A bland recitation of dates, statistics, and miscellaneous facts is unlikely to be helpful. Rather, the investigator needs to know or to make the best assumptions he can as to what the most likely options are in the case and provide the court with information that will help make the choice, including recommendations or suggestions as to the disposition; any special conditions; and arrangements for supervision and any needed services.

If restitution is a possibility, reasonable effort should be made to establish the value of out-of-pocket losses the victim sustained and amounts paid by property or health insurers or likely to be paid from a state victim compensation fund. Where either restitution or a fine is likely, the defendant's assets, earning level, and obligations need to be established--as well as his credit record and other indications of his reliability in meeting obligations. With restitution, subject to court agreement, negotiations may be in order to scale the amount or payment rate to the defendant's circumstances and to what the victim will accept.

Community service in full or partial settlement of a fine--or restitution--should be checked out as a possibility and an assessment made of the feasibility of this kind of program for this defendant.

With chronic offenders or other defendants where the issue of possible danger to the community arises, special care should be taken to gather and assess facts of personal history and circumstances which afford an objective basis for estimating the probabilities of repetition and of the defendant's likely performance under supervision. In such cases there is often evidence of a crime-related problem or condition--alcoholism, drug dependence, limited employability, assaultiveness, etc. The significance of these problems and, if indicated, the availability of effective services to remedy them need to be investigated*

Public Defender Rehabilitation Services

A program integrally related to sentencing is provided in a few jurisdictions by the public defender's office. Project staff had occasion to observe such programs

*It is recognized that this treatment of presentence investigation and reporting is cursory. An LEAA "prescriptive package" on these practices is presently under development by Robert M. Carter, University Justice Associates of Los Angeles, California. It is likely to be published at about the time of this series of reports and should deal with the subject much more definitively than was possible for us. Fuller discussion of common crime-related problems and arrangements for help in evaluating and treating them is provided in Chapter III.

in Portland, Oregon and Washington, D.C. These programs differ from ordinary presentence programs of probation agencies in several ways:

1. They involve advocacy for the defendant as opposed to the ordinarily neutral position of the probation staff.
2. Contact with the defendant begins when or shortly after charges are filed--rather than following conviction.
3. Emphasis is on development of alternative programs for the individual rather than preparation of a report on his history and circumstances.
4. Background information and availability of appropriate services for a defendant may be used
   a. to gain his pretrial release;
   b. in connection with plea bargaining;
   c. to affect the judge's decision at time of sentencing.

Washington, D.C. The Public Defender service has a social services staff. They offer assistance to indigent defendants--both clients of the public defender and others who may have appointed counsel. The services include some direct assistance, such as job placement or emergency housing arrangements. They also involve arrangements with community agencies for more extensive or specialized services. These include agencies which deal with alcoholics, drug addicts, persons in need of marital counseling, and those who need help in improving their employability.

If a client does not need or request services, the rehabilitation unit takes no action. If it is unable to work out a satisfactory plan for an individual, it so notifies defense counsel but does not submit a written report. Where it is in a position to recommend a service arrangement, the unit prepares a report which counsel can then use in seeking some appropriate disposition of the case.

An extensive evaluative study was made of this program as it operated during a demonstration phase from 1967 to 1969. This was reported in "Rehabilitative Planning Services for the Criminal Defense," a publication of the National Institute

of Law Enforcement and Criminal Justice (1976) available from the U.S. Government Printing Office, Washington, D.C. Findings were favorable in terms of improved services for defendants, increased use of alternative dispositions and a better record as to recidivism among clients receiving services than those in control groups.

Portland, Oregon. The Metropolitan Public Defender operates a similar program for defendants in the District and Circuit Courts of Multnomah County, Oregon. It is known appropriately as the "Alternatives program" and has found extensive favor with the judges. Services are provided by a staff of five full-time persons, plus some part-time and volunteer personnel. Emphasis is on development of plans which are presented by defense counsel to the court at the time of sentencing along with an appropriate recommendation as to the sentence.

In fiscal year 1974-75, staff completed services for 661 cases which had been opened during the year. Indicative of their indigent status, 71% were unemployed at the time they were first seen. Two-thirds were charged with felonies.

The agency recommended an "alternative sentence" with related service arrangements in 68% of the cases where sentences were imposed. The judges accepted the recommendations 67% of the time and accepted them in part in an addititonal 13% of the cases. Probation with conditions was the most common disposition--the most frequent conditions having to do with employment or training; alcohol or drug treatment; restitution; and community service. There were some recommendations for sentences involving confinement, including use of a state forestry camp, use of work release, and voluntary commitments to residential alchol or drug treatment programs.

Rationale. The argument might be made that such programs should not be necessary, since they would seem to duplicate services which are or should be available from other publicly supported criminal justice agencies: pretrial release and diversion agencies and probation departments. Where such agencies do exist, defense counsel could refer clients to them for services or development of treatment plans. But if counsel is to do his best job in behalf of his client and effectively represent his interests, he frequently will need services of a sort or within some time constraint which other agencies may not be able to meet.

If legal defense efforts are to be integrated with rehabilitative plans and services, the ideal arrangement is to provide such services within the public defender agency. At least this was a conclusion of the LEAA study mentioned above; (see page XIV of that study). The arrangement also has been recognized and recommended by the National Advisory Commission on Criminal Justice Standards and Goals in its report entitled "Courts" (Standard 13.14, page 280).

Research and Statistics

For planning and budget purposes it is essential that court services staff maintain records, covering essential characteristics of the offender and his offense and all transactions affecting his status, including the purpose or reason for these and chief resources used. Records should be tapped periodically in order to generate statistical reports reflecting not only workload data, but court dispositions and the outcome of these. Reports will be dust collectors of course unless used by the judges and program managers in the ongoing evaluation of policies, procedures, evident effectiveness of methods and resource agencies, and manpower use.

Ideally, there should be provision for qualified researchers - to assist in designing records and in data analysis and to help plan the use of experimental methods in testing new program ideas or in-depth evaluation of established methods concerning which questions may be raised.

Unless provision is made for in-depth studies, preliminary statistical data can be misleading. A particular option may appear to be quite effective or not working well at all - judged by violation rates associated with it. But further checking may uncover facts which reveal that the initial impression should be discounted, modified - possibly even reversed. For example:

The number of cases or time periods involved may be insufficient to make any judgment at this point.

Case selection is affecting results, viz.:

Excess of high risk cases

Mostly cases presenting low risk

Lack of selection criteria -

cases reflecting utility of the program are neutralized by cases inappropriately selected

The program or services is not what the court or agency assumes it to be

Because of uniquely skilled or dedicated staff it has qualities not anticipated;

Staff not well prepared or committed or, for other reasons, service is not effectively delivered.

With assistance from centralized governmental service agencies (planning, fiscal, management analysis, research, etc.), it should be possible in many jurisdictions to evolve an information system and conduct studies which will get at cost effectiveness of court dispositions and services designed to implement them. It may well be found that resources are not being wisely allocated for example: undue use of high-cost measures where less expensive dispositions would accomplish the objective or under-funding of an approach that could profitably be extended to many more cases.

CHAPTER II

ALTERNATIVES TO CONFINEMENT

Most misdemeanants are not sentenced to confinement. Protecting the community from dangerous or professional criminals usually is not involved. Offenses ordinarily are not so serious in intent and consequences as to call for the severe punishment of incarceration. In some offense categories the majority of defendants are young; many are women; there may be no prior convictions. In other cases, the defendant may be a derelict--or a person headed toward that destiny. Judges are led to give more thought to salvaging the offender and, where possible, compensating the victim or the community than to punishment or incapacitation.

Alternative dispositions lend themselves to these purposes. They are less stigmatizing and less disruptive of the defendant's life. Certain of them are based on the concept of reparations. They usually are more congenial to the purpose of rehabilitation than a jail sentence. At the same time community alternatives generally are less costly than confinement.

Pros and cons of various alternative dispositions are reviewed here. In succeeding chapters various examples and models are presented to illustrate ways in which sentences are implemented.

It might be useful, first, to outline sentence possibilities within some orderly framework. Since a disposition can be quite complicated, this is not an easy matter, nor is a disposition chart easily read. The chart presented in Figure 2 below is two-dimensional. Vertical columns cover the various penalties and conditions that might be imposed, suspended, or withheld. The horizontal lines cover a range of options as to implementing the sentence. Together

the two elements constitute the disposition. Various combinations are possible. The chart does not make clear, incidentally, that combinations of penalties and conditions may be imposed, perhaps with different arrangements for enforcement, but this does occur in practice, of course.

Figure 2. Optional Arrangements for Implementing Sentence

	Basic Nature of Disposition		
	Diversion	Conditional Release	Reparations
Arrangement for Monitoring or Supervision	1. Suspended judgment 2. Unconditional release 3. Suspended sentence	1. Behavioral conditions 2. Service conditions 3. Left open[c]	1. Restitution 2. Fine 3. Community service
None	2		
Defendant on honor	3		
Court Clerk			2
Court Volunteer			
Service Agency[a]	1		3
Probation Agency			
Monitoring only		2	
Regular supervision		3	
High structure program[b]		1 or 2	

[a]That is, agency which is to provide some service for defendant accepts responsibility for reporting his performance back to court.

[b]See Chapter IV for examples.

[c]That is, the court leaves to the probation agency responsibility for reaching agreement with defendant on objectives to be attained, restrictions to be observed, or services to be sought.

The figures in the vertical columns represent common dispositions, e.g., No. 2 in Column 1 -- unconditional release/no supervision agreement; No. 1 in Column 1 -- suspended judgment/conditional diversion to a service agency; No. 3 in Column 2 -- conditional release to probation; No. 2 in Column 3 -- fine/ monitoring by court clerk, etc.

Diversion

The subject of diversion is dealt with in Volume 3, where specific reference is made to a form of post-trial diversion (Note 8, Chapter II). This is suspended judgment for some test period, usually involving specific conditions and supervision. If conditions are met, the charges are dismissed, and the defendant avoids a conviction.

There are other dispositions which might also be termed diversionary, in that they terminate the defendant's involvement with the criminal justice system immediately following conviction. One example is unconditional discharge. This says, in effect, that arrest, prosecution, and conviction are sufficient measures in this case. No further intervention seems necessary in the interest of justice, to protect the community, or to try to cut short a criminal career.

Somewhat more interventionary is a suspended sentence without special conditions or supervision. The defendant is "put on his honor" to avoid further criminal activity. If, within a period specified by the court (or by statute), he is found guilty of some new offense, he must pay the penalty for the original one in addition to whatever disposition is made of the new charge.

Unconditional discharge and suspended sentences are the least costly dispositions available, since no services are needed to implement them (other than some routine a[illegible]gement in the prosecutor's office to relate any new charges to the instant o[illegible]n suspended sentence cases). Where the crime is not serious,

restitution is not an issue, and the defendant appears both contrite and capable of avoiding any repetition, these options may be the most appropriate. Of the two, unconditional discharge affords the least complication for both the defendant and the system. A suspended sentence with no condition other than to obey the law is somewhat redundant. If the defendant breaks the law again, he is subject to sanctions in any event.

Considerations favoring more interventionary dispositions are the reverse of those which occasion the use of unconditional discharge or suspension. Circumstances of the crime appear to demand reparations in some form. Or there are indications that the defendant will soon repeat his offense, or commit other crimes, unless something is done to deter or restrain him or to change his life style or circumstances.

Various forms of reparations and other non-incarcerative penalties are reviewed below, followed by discussions of the use of special conditions and of alternative ways of implementing sentences.

Reparations

The idea that a convicted offender should "pay for his crime" is a popular one. Many also hold that, having paid, the offender should be "reconciled with his community." Reparations can take varying forms, of course, and have different beneficiaries. Where a crime involves a personal or corporate victim, for example, restitution for losses incurred or damages suffered would be a likely choice. In so-called "victimless" crimes, reparations might be related to the trouble caused the community, in the way of costs of law enforcement, for example. The form of reparations might be a fine and court costs or community service. The sentence might aim at both recovering victim losses and community costs.

There are serious difficulties in putting a monetary value on crime -- especially in trying to put a price on such effects as "pain and suffering" incurred by victims or "trouble caused the community." Were we able to do this, however, we might be able to come up with sentences which have more meaning for offenders, victims, and others concerned than present practices often appear to have. The problem is complicated by wide differences, however, in ability of defendants to make reparations and the consequent risk of uneven treatment.

Fines. Imposition of a fine for a criminal act is a very old practice. It has an association with some of our less than democratic antecedents. In Colonial Massachusetts "servants and children" were subject to whippings and other public punishments for a variety of minor offenses. Some of these acts do not appear to have been forbidden to "free men," but in any event the latter were immune from public whipping "and other degrading punishments except under very unusual circumstances." Fines were the more common penalty for "free men" for non-capital offenses.[1]

Fines continue to be suspect with some social critics. They are associated with white collar crimes, which may have more extensive and insidious effects than many of the acts of "common criminals." Those fined, in this view, can usually pay up without suffering much, whereas the less affluent, and perhaps less truly serious offenders, must pay with their liberty.

Nevertheless a fine is popular and an apt disposition in many situations. It can serve to deprive the offender of any gain from his crime and, beyond this, materially penalize him. Its payment is an obvious act of reparation -- and does offset costs of crime to the community. If payable through installments, its terms can be met by many less affluent offenders for whom a sizeable cash fine would not be feasible. Comparatively high fine payments over an extended

period can, of course, be demoralizing for a family man with low earning power and, potentially, work against the goal of rehabilitation. Paying a fine also would limit his ability to comply with another alternative -- restitution to the victim.

Payment of a fine affords the community no ongoing protection beyond the extent it serves to discourage the offender from reverting to crime. Thus, as a sole disposition, it may not be especially useful in dealing with chronic offenders.

Unless there are effective and efficient arrangements for fine collection -- especially in a populous jurisdiction and in relation to installment fines -- this disposition can be a weak one in dealing with higher-risk defendants.

Restitution. Restitution to victims is an appealing concept. It fits nicely with the ideal of reparations by the offender, leading to his reconciliation with the community -- conceivably even with his victim.

There are all sorts of practical problems and thorny issues. These need not occasion dismissal of the idea, but have to be dealt with in planning a court dispositions policy which emphasizes use of this measure. These matters include:

1. Procedures and standards for establishing the value of stolen items not recovered;

2. Determining how to apply the restitution concept where stolen property was insured -- (e.g., Compensate the victim for the portion he had to pay? Reimburse the insurance company for its share?);

3. Determining the full costs of personal injury -- inconvenience suffered and especially "pain and suffering" costs (e.g., use of a board or "master" by the court; reference to workman

compensation standards or to those of a state victim compensation board, where one exists, etc.);

4. Gaining the participation of the victim to the extent this is a necessary part of any arrangement;

5. Equitably scaling the amount of restitution to the capacity of the offender to pay;

6. Finding a workable and lawful substitute for cash payment -- (e.g., services directly benefitting the victim or symbolic payment through services for the community);

7. Monitoring and sanctioning the installment payment of restitution;

8. Dealing with the question of whether restitution is (a) a sufficient penalty (e.g., where the loss to victim was small but the offense itself serious); (b) excessive punishment (where it is imposed in addition to other penalties, such as fine, jail term and/or probation);

9. A related issue -- how to see that "equal justice" is done. The wealthy offender (whether a professional criminal or lawfully affluent person) may be able to make restitution with little or no hurt or inconvenience; to the poor person it might prove a quite burdensome penalty. One result of this prospect might be more frequent use of jail for poor persons than for equally culpable well-off offenders. Where restitution is used, consideration of the defendant's ability to pay is in order.

During a national conference on restitution held in Minneapolis last year, speakers identified several purposes which have been or might be served by the practice of restitution and urged that those planning restitution programs be

as clear as possible in their objectives.[2] Explicit purposes -- or priorities among purposes -- will help produce guidelines which judges can use in considering this disposition.

Five possible purposes were mentioned: redress to the victim; less severe sanction for the offender; rehabilitation of the offender; reduction of demands on the criminal justice system without a public appearance of "softness on crime"; and reduction of the need for vengeance in society.[3]

These purposes are not all mutually exclusive, but in many cases full compensation to the victim and the goal of offender rehabilitation might clash. Indeed there are cases where full compensation would clearly be beyond the means and earning capacity of the offender, unless perhaps he were indentured for life to the victim.

In jurisdictions where offender rehabilitation is given high priority, the tendency is to scale down the amount of restitution both to make payments feasible for poorer defendants and to avoid excluding them. This does not meet the needs of victims, and may not impress the offender with the true effects of his crime. Nevertheless, it is a practical necessity in many cases, if restitution is to be required at all.

So far as victims are concerned, a suggested remedy is a state operated and funded victim compensation program. Such programs are beginning to catch on in this country, generally in relation to crimes involving death or physical injury.[4] Offenders still might pay such restitution as is reasonable for them -- either directly to the victim or to the compensation fund. A compensation program for property losses is probably not feasible or necessary, since significant property losses usually are covered by insurance, and restitution often is possible where the loss is small.

Mention was made of payment of restitution through services to the victim in lieu of cash. This may be feasible in some situations, and is not unknown in juvenile court dispositions (for example, cleaning up a school building by a group who vandalized it). In some contemporary restitution programs for adults, a variation of this is called "symbolic restitution"--that is, performance of voluntary service for community agencies. This is really compensation for the community at large rather than restitution to private victims and is dealt with separately below.

As the discussion here suggests, policy planning and implementation of programs in the area of restitution are fraught with complex issues. A great deal of care and thought, along with ongoing evaluation, are in order if a major change in sentencing practices is contemplated which would feature use of restitution.

Community Service. As a substitute for, or in partial satisfaction of, a fine an increasing number of courts are using the option of community service. Generally, this is imposed as a condition of a suspended or partially suspended sentence, although it may also be a condition of probation.

Typically, the offender receiving such a disposition volunteers his services to some community agency for a certain number of hours a week over a specified period of time. The total hours, frequently assessed at the minimum hourly wage, represent the level of the fine that would have been imposed -- or that portion of it suspended. The agency served may be any private, non-profit organization or government unit performing useful services in the community. The nature of work done is dependent on the skills of the offender and needs of the agency.

Ordinarily only the agency head or a specified representative is aware that the individual is "court referred." By others the person is assumed to be an ordinary volunteer.

Several organized "community service programs" were observed by project staff. They varied extensively in scope and size, staffing arrangements, and frequency of use by judges. All reported comparable rates of "success" -- 75 to 80% of those assigned completing their volunteer work in an average of about ten weeks and not incurring rearrest at least while in the program. These figures held for programs serving a range of from 5% to about 30% of convicted misdemeanants.*

This disposition ordinarily is used where the traditional practice would be a fine, a short jail sentence, or probation with a condition of making restitution. Generally, it involves people who are not in a position to make money payments of any consequence and for whom a jail sentence would seem excessive or otherwise questionable (e.g., a mother of young children, a working person with dependents, a naive first offender, etc.).

Some of the same problems arise with community service as with other dispositions.

Persons who make a good appearance, have a skill, are "well-mannered" and not "anti-authoritarian," are reliable and in a good position to do volunteer work usually do well under this disposition. They are well accepted by community agencies, easy to place, and do not require prodding or other efforts to enforce compliance. Many are the sort who -- in the absence of such a program -- might be diverted or receive a suspended sentence without special conditions.

* The 30% figure was our estimate for the Multnomah County District Court, Portland, Oregon, in 1975, based on figures supplied by the clerk of court and the community service program coordinator.

This needs to be kept in mind in instituting a program -- people presently not seen as requiring punishment or publicly financed intervention in their lives may become the main participants. This would extend the reach and costs of criminal justice, and the offsetting benefits would be questionable.

The program also seems to work with people who do not fit this description, but there are obvious limits. The defendant must be willing to participate. He must have something to offer which an agency needs in the way of skill, work habits, or at least willingness to learn and perform some simple tasks. The less capable, motivated, or reliable he is, the more staff time will be required in placing him, monitoring his compliance, and, if need be, persuading him to maintain his performance.

Where a community service condition is particularly burdensomeit may not work out well. A mother might incur heavy child care costs. A low-income family head may have to give up a badly needed second job or over-time work in order to handle his community service obligation. At times there are ways around such problems. In one instance an impoverished non-working mother of small children was skilled in needlecraft; her assignment was to make a designated number of articles of clothing for an agency which supplied her with the materials.

A number of judges who use this disposition are enthusiastic about its rehabilitative value. They see it as teaching lessons not only about the consequences of crime, but about positive aspects of community life of which the defendant had been ignorant. As evidence they cite not infrequent cases where the defendant continues on as a true volunteer with an agency after completing the required hours of service. (For further discussion of community service, see page 40).

Tasks. One optional penalty does not entail reparations so much as a mandated "learning experience." The defendant, in lieu of a fine for example, is instructed to carry out some activity designed to improve his appreciation of law and justice. The nature of an appropriate task would depend on the defendant's age, background, and characteristics. A period of observation in criminal court, tour of a prison or jail, riding with police officers in a patrol car -- all are examples of tasks which are used and might be instructive and positive experiences for some defendants. Other examples include reading and writing a report on a book or other relevant material, writing an essay, making a series of speeches, or even conducting some small-scale piece of research. This disposition lends itself to a high degree of individualization, although it is of limited usefulness for other than comparatively naive first offenders.*

Conditional Release

In addition to or in lieu of penalities, the court has other options. Although often "penalizing" in effect, they are considered here under the rubric of conditions and sanctions, the latter being "back-ups" for the former.

Incorporating special restrictions on behavior or requirements to participate in rehabilitative programs in a sentencing order is not something to be done without careful consideration of relevant facts and probabilities. Unless tailored to crime-related problems and predictable responses of the defendant, conditions may prove an unnecessary burden on him, on probation, or other community agencies, or on all of these. Conditions are likely to be unrealistic if there are no means to monitor their compliance and certainly if required

* For a brief review of alternative reparations sentences, see Appendix C.

resources are unavailable or inaccessible to the defendant. Conditions tend to entail costs, which need to be assessed against the benefits they can be expected to produce.

If a condition is not met, there is the added cost and perhaps difficult decision of invoking a sanction. Consider, for example, a situation involving a young shoplifter who is given a suspended jail sentence and a condition imposed that he complete a high-school equivalency program to improve his chances for steady employment. He fails to carry this out and continues to be irregularly employed, but is not involved in further crime. Should he go to jail?

Where rehabilitation is the object, so far as research can tell us, coercive treatment and training are of dubious value in most cases. If a defendant is positively motivated to seek services or to improve his education or work skills, chances are he will benefit from an appropriate program. But if he becomes involved only to stave off a jail sentence, his participation may be perfunctory and without lasting effect.

Guidance from a concerned and knowledgeable person may tap latent motivation and help a defendant to commit himself to some useful program. Rather than some specific condition, a preferable sentence order might provide for a period of supervision by a probation officer, a volunteer, or some other person or agency. The order might state that the purpose of supervision is to assist the defendant to overcome some specified problem, with the agency and defendant to agree on the means.

No attempt is made here to settle all the complex issues of setting conditions and invoking sanctions. This is an area for continuing study in the criminal justice field. The purpose here is to emphasize the need for adequate information and forethought in sentencing. The process at times requires the balance of a tightrope walker.

If specific conditions are set, it is important to make certain in advance that any sanction imposed is likely to be appropriate. On the other hand, if, in the final analysis, the court is not going to invoke a sanction, it is probably better not to include special conditions in the sentence.

Use of Contracts. An increasingly common practice in corrections is the use of formal agreements between the agency and the offender. He contracts to achieve certain objectives; the agency agrees to a course of action, if the client does his part. This might be a grant of parole; advancement from ordinary confinement to work release; early discharge from probation supervision; or, where appropriate, expungement of the record. Negative contracts are also used, as in one diversion program where failure to meet agreed upon performance standards can result in removal from the program and possible resumption of prosecution.

In lieu of special conditions the court might place an individual on probation, leaving to him and the agency the negotiation of a contract. There should be a close understanding between the court and the probation department, however, as to ordinary contract terms and their use. Court ratification of agreements which embody unusual requirements would be in order. Otherwise probation department recommendations for early discharge, expungement, or revocation can become empty gestures.

The use of such a contract system is not without hazards to the rights of defendants or the wise use of community resources. Naive practitioners or defendants overly anxious to please can produce agreements that demand or promise more than can be delivered -- or impose burdens on defendants which significantly enhance the penalty set by the court.[5]

Crime Avoidance Condition. One condition which may be made explicit (by the controlling statute or the sentencing order) is that the defendant

refrain from further crime. At times this can give rise to dilemmas. For example, a defendant is given probation for an offense carrying a maximum penalty of a year in jail. Subsequently he is charged with a petty offense for which the maximum penalty is a fine. Aside from this he has done well on probation. Should probation be revoked and a long jail sentence imposed -- or should he be fined and continued on probation?

Another not uncommonn situation is where a probationer is "known" to have been involved in a crime but legal evidence of this is lacking. He could not be convicted of the new charge, but having "engaged in criminal behavior" he has violated probation. Since rules of evidence for probation revocation hearings are less strict than for court trials, he may be subject to execution of the suspended penalty. At times, rather than use the "criminal behavior" charge in such a situation, some comparatively minor technical violation may be cited. This device tends to draw accusations of arbitrary and inappropriate punishment. One problem in this area is how certain the evidence of the alleged new crime is; does it fully meet the "preponderance of evidence" test? Also of concern is whether it was obtained by clearly illegal search or seizure or entrapment.

Special Situations. In some cases, if jail is to be avoided, there must be some guarantee that a substitute penalty will be satisfied; that the community will be protected; that the client will at least be exposed to helping services.

Where a defendant has an extended history of unlawful behavior, entailing threat to other persons or frequent, troublesome problems to the community, the court undoubtedly will want to maintain some form of ongoing control over him for some appropriate period. This can range from very extensive, day-to-day supervision to whatever less than this affords reasonable assurance that he will refrain from repeating his offenses.

For example, the problem may be a matter of repeated threats against or physical abuse of an estranged spouse. Any of several special conditions might be appropriate, depending on the circumstances: that he avoid all contact with her; that he join with her in undergoing some mediation or counseling service to unravel their differences and restore peace between them; or that he avoid her and in the meantime involve himself in some program that will lead to some new and less stormy relationships with people.

The trouble may be chronic public drunkenness or drug dependency associated with repeated theft. The defendant may be given, in effect, a choice of jail or participation in a treatment program recommended by a designated source of diagnosis and guidance. Despite the "iffiness" of such arrangements, they do work out in some cases. Where community risks are not grave and alternative program costs are not significantly higher than jail, it is worth chancing. This is even more so where clinical evaluation results in a favorable prognosis in the individual case.

Other "lifestyle" problems might include a combination of chronic unemployment, low earning ability, family neglect, repeated offenses of various sorts, constant association with other chronic offenders, and disinterest in any useful community activity or constructive leisure time use. Jail would temporarily interrupt some of these behavior patterns, while reinforcing others. An alternative program, entailing full-time employment or training or extensive occupation of the defendant's leisure time, while he maintains regular employment, might promise better results.

Special Education. There is one other kind of situation where something of a rehabilitation-oriented condition seems especially appropriate. The best example would be required attendance at a course specially designed for persons convicted of drunken driving. Often this is experienced by the defendant as more

in the nature of a penalty than an opportunity to learn something new and useful. It does tie up some of his free time for several weeks, subjects him to possibly embarassing exposure (to instructors and others enrolled in the course), and usually costs him tuition or a fee.

Even as a penalty, it may well be a more effective one than a few days in jail, a fine, or a period of nominal supervision. At the same time, a well conceived and properly conducted course may bring home to the defendant some considerations that will help him to be more careful about driving after he has had too much to drink. At least one research study found this disposition effective compared to others commonly used.[6] Additional evidence of its probable effectiveness is its widespread and increasing use in jurisdictions across the country.

The same considerations may apply to other offense categories -- for example, drug education courses for youthful offenders who have been experimenting with drugs or who have been on the fringe of the illicit drug trade.

Sanctioned Supervision. Another reason for special conditions would be a requirement on a designated agency (e.g., the probation department) to maintain surveillance over a defendant. The defendant must be under a sanctioned obligation to report to the agency and keep agency staff informed of his whereabouts, if the sentence is to be successfully implemented.

Probation as a Disposition

The final point above may lead to questions as to the nature of probation. Probation may simply represent a procedure for assuring that certain provisions of a sentence are implemented -- that restitution is made, community service performed, or special conditions met.

Probation also is used in lieu of setting special conditions, as was suggested above. The defendant is required to maintain contact with the probation department and is urged to consider information, advice, and resource agency referrals which the department provides. The defendant and the department may reach agreement on certain objectives and ways of achieving these -- possibly through the contract method. Terms of the contract may become official conditions of the sentence if they are ratified and sanctioned by the court. Otherwise what exists is in the nature of a "gentlemen's agreement," which may have value as a guidance tool regardless of provisions for enforcement.

Probation, like any other disposition, should be used to some appropriate end. It has two functions: control (monitoring, limit setting, surveillance, investigaion, confrontation); and helping services (guidance and supportive counseling; referrals to community resource agencies; and at times, direct services of a specialized sort in lieu of referral to another agency). Since probation departments typically are limited in capacity, this disposition should not be used unless there is a demonstrable need for control measures or for services to help a defendant with some crime-related problem. Even where such needs exist alternative arrangements may be available, and these should be considered. The presentence report should address this issue and make appropriate recommendations.

An LEAA "prescriptive package" on adult probation and parole is presently under preparation by E. Kim Nelson of University Justice Associates of Los Angeles, California. Since this will probably be published at about the same time as this series of reports, we have limited coverage of probation here to this rather summary discussion.

Alternative Arrangements

Monetary Payments. Where the sentence is to pay a fine, court costs, or restitution on an installment basis, once the amount and schedule of payments are determined, follow-up may be left to the clerk in most cases. The procedures should include a monitoring process, a system of prompt and clear reminders on tardy payments, and policies for reporting to the court where default is suspected or a defendant presents continuing problems of tardiness or partial payments.

If installment payments are to be used extensively, especially in marginal risk cases, there will be a need for more than services of the clerk in selected cases. Otherwise the judge may become embroiled in an unending run of time-consuming problems. One lower court judge told us that he was opposed to ordering restitution because he simply did not have time to deal with the repetitious bickering between victims and defendants.

The need can be met through provision for investigation, mediation, and defendant guidance services. These would be appropriate functions for a probation department.

Community Service. A community service program requires extensive contacts with a host of community agencies, schools, hospitals, organizations, etc. willing to accept court-referred volunteers. It requires matching the interests, skills, and personal traits of the defendants with agencies where they are most likely to be useful and to perform their service successfully. Beyond this, there are the tasks of keeping track of defendants, verifying their completion of volunteer service, at time issuing reminders or warnings or arranging for placement changes, and submitting reports to the court.

These are functions which can be and in some instances are absorbed by a probation department. An alternative is a private volunteer recruitment agency,

where one exists in the jurisdiction. A model of this arrangement is presented in Appendix D. Its development was an out-growth of an especially effective program operated by the Alameda County (Oakland), California, Volunteer Bureau at the behest of the County's Municipal Court judges.

Rehabilitative programs. At times, defendants can be referred directly from court to an agency which has agreed to provide some specialized educational, training, or treatment service, without the necessity for further involvement of the probation department.

This would be true in three rather different circumstances: (1) where completion of the program is not a sanctioned condition and where there are no other penalties or conditions requiring follow-up by probation; (2) where completion is a sanctioned condition and the service agency agrees to supply progress reports to the court, including prompt notice if the defendant appears to have dropped out, is believed to have absconded, or is known to have been arrested on a new charge; (3) where the court decides to put the defendant on his honor to carry out such a sanctioned condition, reporting back directly or through counsel upon completion.

A modified arrangement, frequently employed, is for probation to carry such a case in a "monitoring only" status. Face-to-face contact with the defendant is left to the service agency, which keeps probation informed of his progress or of any loss in contact. So long as the program is working, probation services are at a routine clerical level. Only in the event of some breakdown, requiring investigation or possible program changes, does probation incur a significant workload.

Highly structured Alternatives

There is a range of alternatives between a traditional jail sentence and ordinary probation. These more highly structured alternatives can be divided

into two classes: (1) those involving partial custody or a condition of undergoing treatment in a residential facility; (2) non-residential arrangements. These are dealt with in Chapters IV and V.

CHAPTER III

ALTERNATIVE PROGRAM DEVELOPMENT

Although it may not often be possible to mandate an offender's rehabilitation, this does not mean that he may not stand in need of services -- nor that he might not make effective use of them. A high percentage of misdemeanants appearing in court for sentence evidence crime-related problems -- problems which directly involve or are closely associated with unlawful conduct. Many have some motivation to seek help, and of these, many will benefit from an appropriate, effectively provided service. By and large, these kinds of problems are rarely eliminated by punishment alone; they may be temporarily neutralized by incarceration or very close supervision but recur as soon as the sentence is completed.

The court is not a social service, educational, or mental health agency, but it is in a position to identify people whom such agencies can help. And it can -- considerations of justice and community protection permitting -- make dispositions which facilitate or at least permit effective service arrangements. These, in turn, may prove not only more humane and less costly than traditional punishments, but may lead to resolution of a problem and long-term benefits for the community and the defendant.

To maximize these possibilities the court requires resource mobilization and program development services --key functions of a probation department.

Program development involves fashioning procedures and agreements to facilitate use of community resources by probationers and other court-referred defendants. These would include provision for services (1) to aid in assessing problems; (2) in making appropriate referrals; (3) service delivery; and

(4) arrangements for monitoring client participation and results of this. Alternative arrangements may be needed to accommodate a range of dispositions -- e.g., unconditional discharge, suspended sentence, probation, "non-traditional" confinement. With such arrangements "in place," choosing an appropriate sentence option -- and implementing it -- can be greatly expedited.

Program development at times entails collaborating with resource agencies in developing specific services, education or training courses, residential care or treatment facilities, or whatever might be needed and feasible in expanding resources, making them more relevant to defendant needs, or creating new resources. This may include identifying sources of funds to develop and test new programs and preparation of grant applications to this end.

Resource mobilization begins with an inventory of recurrent crime-related conditions and problems among misdemeanants which might be amenable to education, training, counseling, placement, residential care, or other services. It entails identifying existing sources of such services and advocacy to expand or make them more accessible to public offenders.

Resource mobilization also involves recruitment of volunteers, including professional practitioners willing to dedicate some time to assist in evaluation or treatment of defendants; lay volunteers to provide other direct services such as tutoring; persons in a position to open up jobs and other resources; and persons to assist in such tasks as screening, referral, monitoring, and supportive counseling. Appendix E provides sources of information and consultation on recruitment, orientation and effective utilization of volunteers.

The specifics of a resource mobilization and program development service will depend on local circumstances: offender characteristics, especially the incidence of various crime-related problems; special community concerns at

the time; the variety, quality, and accessibility of community resources; the relative availability of helpful volunteers and allies to aid in opening up and expanding needed services. Some generalizations apply widely, however, and these are offered here for consideration and adaptation to local situations. The presentation follows an arbitrary categorization of commonly needed services and frequently observed problems which appear to be integrally related to particular forms of crime. Some examples of programs are included in this chapter; others will be found in Chapters IV and V.

Non-serious Offenders: Less Complex Problems

Short-term educational programs have proved of value and are widely used especially with serious or repeated traffic offenders, including drunk drivers, and with minor drug law violators or persons who have been using drugs experimentally but are not addicted.

Albuquerque Traffic School. The Municipal Court Probation Department in Albuquerque, N.M., operates its own school for traffic offenders. This is a self-supporting program, financed by tuition fees of enrollees ($20.00 in 1975). Attendance commonly is a special condition of probation or a suspended sentence for drunk drivers and other traffic offenders. In 1975 the school had a director, three part-time instructors, and a secretary. The program included six 2½ hour sessions over a six-week period. Class size averaged 50. Content dealt with issues of traffic control, excessive alcohol use, and hazards of drunk driving or other dangerous driving habits. Defendants with quite serious drinking problems also may be referred to the county drug and alcohol treatment agency.[1]

Community College Programs. A more common arrangement is where such a "traffic problems" or "drunk drivers" school is operated by a local educational institution. Most commonly this is a community college, but adult education

divisions of high schools also may provide the service. Again these should ordinarily be self-supporting through tuition or fee charges -- although scholarship arrangements should be available, if an unemployed indigent offender stands in need of the program.

Minor Drug Offenders. Similar programs exist for young offenders who have been skirting the edge of the drug rackets, or experimenting with marijuana or other drugs. Typically these are hosted by community colleges, using part-time instructors from law enforcement, probation, clinical psychology, medicine and other disciplines. The aim is to explore the social, physical, and emotional implications of drug use and legal and social aspects of illicit drug traffic and its control. In some jurisdictions such programs are supported by a combination of local, state, and federal funds appropriated for drug education and treatment. In others -- as with traffic schools -- defendant fees or tuition payments take care of program costs.[2]

Program Content and Method. Regardless of the problems of the target group, it is obviously important that much care be taken in planning and updating content of these programs and assuring that instructors are well-informed and effective. Grossly inaccurate information, scare tactics, dull presentations, reluctant or cynical instructors -- any of these can quickly subvert educational programs. Consultation should be sought from sources of expertise in alcohol and drug agencies and universities.

A strong educational base and a competent, deeply interested program coordinator are first essentials. Ongoing program evaluation is important -- including periodic observation of classes and interviews with instructors and enrollees, supplemented perhaps by questionnaire studies. Interaction with similar programs in other communities is also important.

Such programs can be helpfully stimulating and informative. Because they tie up, ordinarily, an evening a week for a month or more and may involve a financial outlay, they have a punitive effect, but a more constructive one than a fine or a few weekends in jail. The experience can reinforce the good resolutions of the contrite offender and perhaps tip the balance in favor of change for a defendant who is tending toward this with some vacillation. But such programs are not often deeply or lastingly motivating and cannot be expected to effect dramatic change in a resistant or indifferent person. As a matter of fact, in poorer risk cases such a program may be useful only as one of several measures designed to induce change (such as specialized counseling; relatively long-term supervision; or job training and placement).

Other Applications. Short-term educational or group guidance programs could be developed for other offender categories, for example, comparatively naive offenders who fail to appreciate the economic or social implications of the type of offense in which they were involved -- shoplifting, bad checks, welfare cheating, pilfering, vandalism, group disorders, etc. The method also is relevant to certain family life and employment problems as discussed below.

Programs need not be in group form. There is always some risk in group approaches with offenders, e.g.: group negativism toward an instructor, program content or obligatory attendance; reinforcement or more extensive loyalty ties among chronic offenders. In Washington, D.C., the Superior Court uses a disposition in some less serious cases known as "First Offender Treatment." The defendant is assigned certain tasks which require him to expend some time and effort and, hopefully, serve to increase his understanding of and respect for the law and law enforcement (e.g., period of observation in criminal court, specially conducted FBI tour, preparation of an assigned paper on a justice-related topic).[5]

Assignment of such "learning experience" tasks can be a useful option, lending itself to individualization while involving minimal cost. Among examples illustrating this point was a recent federal court case involving a major white-collar crime. The offender, a prominent businessman, as part of his penalty, agreed to make a series of talks to service clubs in which he could discuss ethical and legal issues involved in his offense and prosecution.

This kind of disposition, especially as in the above illustration, is in the direction of community service, which was described in Chapter II.

Services Related to Family Problems

A wide range of family relationship and management problems are associated with offenses commonly handled in lower courts. Offenses may include assaults or threats, failure to pay child support, abuse or neglect of children, welfare fraud, and various property crimes where the motivation was to raise money to pay debts or meet current family expenses.

Service needs depend on the specifics of the problem which contributed to the crime and could cause a repetition: unemployment or limited earning ability; ineptness in fnancial planning and management; lack of understanding or skills in child care, nutrition, or homemaking; serious, chronic misunderstanding and friction between spouses; tendency to employ physical violence to resolve differences.

Vocational and employment problems are dealt with separately in a section below. Some of the other problems may be amenable to short-term education course, as discussed in the foregoing section. At times something closer to tutoring is required -- such as homemaker service for a young, unprepared mother without family or friends willing or able to guide her.

Where a propensity for violence reflects identification with a particular subculture, this will be difficult to deal with. The problem might be modified through group counseling, where group leaders identify with the same subculture but have found it expedient to develop alternatives to violence in settling disputes. If there is a strong pathological element in the defendant's use of violence, the problem is even more difficult; psychiatry, clinical psychology, or behavioral psychology represent possible sources of assistance. Further reference to problems of this type will be found in the section below on psychopathology.

Child care problems, conflicts between spouses, and, in general, problems of family cohesion and home management may call for conciliation services, a period of family counseling, or extended casework service. A chief source of consultation on program planning and individual service planning in this area is the social services division of the local welfare department. Some defendants may be eligible for services of the department. In any event, the department has knowledge of methods and agencies or professional practitioners accustomed to working with such problems.

Other sources of advice and client service would include private family and child welfare agencies, the domestic relations court's conciliation service, clergymen trained and experienced in marital counseling, and local professional associations of social workers, psychologists, and psychiatrists. Other sources of ideas and skills would be some attorneys dealing with divorce and child custody problems or bankers and merchants skilled in advising people on personal and family economics issues. Home economists, public health nurses, and child care consultants represent other important resources in relation to domestic problems.

The task of the probation department is to enlist these various sources in identifying or developing programs and working out reliable arrangements for case evaluation and services in this problem area. These are challenging and time-consuming tasks but in the long run will produce resources far beyond what an unaided probation staff can muster.

Employment Related Programs

The most recurrent problems of public offenders are chronic unemployment, underemployment, or limited employability. Many are poorly educated and without work skills or experience. Some are afflicted with physical handicaps, poor health or physical development, alcohol or drug addiction. The added handicap of a criminal record aggravates their condition, restricts opportunities, and can undermine confidence and motivation.

The prospect of serving "life on the installment plan" in jails and prisons and repeated failure when free in the community also can motivate some individuals to seek a way out of the rat race of hustling and petty crime. Reached at that point with useful services, they may break from the cycle of idleness, thievery, and jail and move out into a lawful, self-maintaining role.

In some instances, the problems are not long-standing or severe and the needs are minimal -- perhaps for help in finding a temporary job in an emergency or a more permanent job that pays reasonably well or offers a chance for security or advancement. In other cases, the needs may be massive and the chances of success 50-50 at best. But guidance, teaching, job development and placement, supportive services to help a new worker get established -- these are all tasks for which skilled people are available and which can produce measurable results and have done so with offenders as well as other categories of people with employment problems.

Federally Funded Agencies. State agencies funded by the U. S. Department of Labor provide employment placement offices in local communities to help job-seekers find work and employers to recruit workers. Anyone can apply for help in finding work. In addition, assistance is available in applying for various job training opportunities, counseling services, and even allowances for self-maintenance, transportation, and other basic expenses while in training.

Competition for jobs and training is high. The more handicapped or less apt or less motivated the applicant, the less his chances may be for placement in other than "day labor" situations. Unless supported by effective referral service by probation, many defendants may fail to benefit from employment office services.

The U.S. Department of Health, Education, and Welfare funds state vocational rehabilitation agencies, which also provide services at the local level -- guidance, education and training, remediation of handicaps, temporary maintenance, and job placement. To be eligible the applicant must suffer from some physical or mental impairment or condition which limits his employability. To be selected for services he must be found capable of benefitting. In other words he must be motivated, trainable, and, generally speaking, capable of achieving self-maintenance, given the help which the agency can provide or arrange and finance for him.

Again, competition for services of vocational rehabilitation agencies tends to be strong, and public offenders often have difficulty, when so many persons apply who are physically handicapped but without arrest records and with other advantages.

Other Sources. The National Alliance of Businessmen has numerous local chapters around the country. Its concern is with facilitating job placement of disadvantaged persons, including public offenders. In many communities this is a good source of employment referrals for those with appropriate qualifications.

Individual unions and labor union councils, service clubs (notably the Jaycees and Junior League), ex-offender groups, and many other organizations, from one locality to another have committed themselves to assisting with occupational counseling, trade training arrangements, and employment placement of offenders.

Community colleges and local school system adult education or vocational training divisions represent the most extensive resources for employment related counseling, education, and training. There are also many proprietary trade schools for clients who can afford them or who are eligible for subsidized training.

Probation's Role. Acting as a catalyst, advocate, and coordinating force, the probation department can obtain commitments of help, volunteer counseling or tutoring services, reserved training "slots," arrangements for job referrals, and specially designed guidance or education and training courses for its clients. It may be possible to arrange for permanent detail to the department of employment placement officers from the state employment agency or counselors from the vocational rehabilitation service. These agencies may establish "desks" in larger local offices, especially reserved to provide services for public offenders.

In any event, an organized set ofservices and opportunities can be created to assure that probationers and other court referred persons will have a reasonable chance at job and career opportunities or counseling and training programs leading to these.

Ideally, an organization independent of but closely allied to probation, should be created to help develop and maintain a network of services supplied by such sources as have been mentioned. Manned by dedicated volunteers knowledge-

able of job markets and training resources, such an organization would be an invaluable resource and permit liberal use of dispositions other than jail sentences. At the same time it could enhance the prospects of incarcerated persons as they return to the community. Pending creation of such a mechanism, an inter-agency committee might perform these functions.

Alternative Arrangements. Some larger probation agencies, or correctional agencies with probation components, may provide direct services in the employment and training area. They may employ job placement officers, vocational guidance officers, or education/training liaison officers to assist offenders in career planning, enrollment in appropriate schools and courses, or job finding.

In one instance (El Paso, Texas), a comparatively small probation department was instrumental in the establishment of a full-time vocational training program for youthful defendants and is deeply involved in its day-to-day operation. (For fuller description see Chapter IV.)

Source of Guidance. A more detailed discussion of issues, possibilities, and needs in this area and a description of a model employment training and placement program for public offenders reference is provided by a recent LEAA-funded study, Phyllis Groom McCreary and John M. McCreary, "Job Training and Placement for Offenders and Ex-Offenders," LEAA, NILECJ, Washington, D.C. April, 1975.

Alcoholism

Excessive drinking may be associated with almost any kind of offense. With misdemeanants it is most often thought of in connection with public intoxication and drunk driving. But it frequently is involved in assaults, child abuse or neglect, various public disorders, sex or morals offenses, and property crimes.

Intoxification is often put forth as a mitigating circumstance in order to gain a more lenient disposition. Interest here is with whether excessive drinking is associated with a pattern of repeated lawbreaking and for that reason needs to be taken into account in choosing sentence options.

At times, assessing this issue leads to a "chicken and egg" dilemma; it is not clear whether poorly controlled drinking or the illicit behavior frequently associated with this is the prior problem.

Difficult also are the matters of determining whether alcohol use really is a serious problem for an individual and, if so, why this is the case and what, if anything, can be done about it.

As with other categories of problems already discussed, the judge or probation officer is unlikely to be an expert in this area. Yet there is probably no single problem that confronts them more frequently in considering misdemeanant dispositions. There is extensive need for specialized assistance in evaluating cases where excessive drinking appears to be a crime-related problem and in helping to plan appropriate courses of action and appropriate sentencing options.

Model Program. Examples of such arrangements include demonstration programs in a number of jurisdictions around the country jointly funded in the early 1970's by the U.S. Departments of Transportation and of Health, Education and Welfare. These were comprehensive criminal justice mental health programs designed to improve community effectiveness in dealing with the problem of drunk driving.

One such program was begun in 1971 in Portland, Ore., with initiative for local efforts coming from Presiding Judge Joseph Abraham of the Municipal Court (merged in 1971 with the District Court of Multnomah County). Planning also involved the Portland Police Bureau, Multnomah County District Attorney's Office,

unty Probation Department, and the Portland office of the state mental health ency's alcohol and drug section. Grants for action and evaluation research re obtained from the two federal departments.

Funds were designed to strengthen enforcement through increased patrol tivity and expanded court and prosecution capability -- and to provide for luation, supervision, and rehabilitative services for convicted defendants.

So far as the post-prosecution phase of the project went, the program rated as follows: With few exceptions, drunk drivers adjudged guilty of the ginal, or in some instances a reduced, charge were referred for presentence estigation. The probation officers screened the cases, referring those who eared to have a serious alcohol problem to the alcohol and drug agency. ection criteria for referrals had been worked out in advance and agreed to the two agencies and the court. The alcohol agency maintained a limitation the number of such referrals -- about a third of the cases as the demonstra- n peaked. This served as a further control on excessive use of expensive luation services.

As intake increased, defendants with minor or marginal alcohol problems e not referred for study. At the same time probation staff increased their lerstanding and skill and became able not only to select prospects for special luation more accurately but to make appropriate recommendation in cases where drinking problem was less serious.

The alcohol agency conducted a rather extensive evaluation of those referred -- erviews, tests, and in some instances preliminary individual or group counsel- sessions. It then prepared a report, characterizing the individual's drink- problem, if any, and recommending a particular approach in dealing with it. s might be attendance at a series of special classes conducted at a local

community college; joining Alcoholics Anonymous; participation in an Anta-Buse program; or extensive professional counseling or psychotherapy. In some instances residential treatment was recommended.

Treatment services might be provided directly by the state agency, purchased by the agency from a private community agency or practitioner, or, where he was able, financed by the defendant himself. Tuition for the community college courses related to alcoholism and traffic issues ordinarily was borne by the defendant. In cases of indigency, the college and state agency shared the cost of the scholarship.

The state agency's findings and recommendations were incorporated into the presentence report. Where evaluation referrals were not made, brief presentence reports were prepared. Most frequent disposition was probation and, generally, recommendations as to educational or treatment services were adopted by the court as special conditions.

A notable result was reasonably individualized approach in sentencing, with appropriate follow-up which proved effective in many cases. Overall evaluation results were equivocal, however. A major unanticipated problem was that enhanced police efforts resulted in an accelerated arrest rate producing an excessive workload for courts and probation, even with the additional staff provided for in the grant funds. This resulted in diluted probation supervision and services -- but had less effect on services provided by the treatment agency, which exercised control over its intake.

Implications. Despite limitations, the demonstration illustrates how agency collaboration can enable a court to handle the sentencing function more knowledgeably and with confidence that relevant services will be provided in cases where the need is serious yet prospects for success are reasonably good.

At the same time this demonstration points up the fact that in relation to a problem such as alcoholism there are standard sources to which probation and the court can turn for assistance in program development. Most if not all states have an agency which is in a position to provide technical assistance on problems of alcoholism. The agency may also be a source of consultation and treatment in individual cases; if not, it can assist in identifying and evaluating programs available in local communities.

Planning Aids. A recent publication of the National Association of Counties is a useful source of information in planning and funding treatment of alcoholism. In addition to guidelines and illustrative material it includes numerous references and listings of source of information and technical services. It is entitled "A Practical Manual for County Officials on the Treatment of Alcoholism" and is obtainable without cost from the National Association of Counties Research Foundation, 1735 New York Avenue, N.W., Washington, D.C. 20006.

Another useful reference work for probation staff concerned with identifying or participation in developing community resources for treatment of alcoholics is an LEAA Prescriptive Package: "Diversion of the Public Inebriate from the Criminal Justice System." This may be obtained from the National Criminal Justice Reference Service, LEAA, Washington, D.C. 20531.

Drug Dependence

Disposition of offenders who have a drug addiction or dependence problem represents a parallel problem. The issues are similar, except that the use or possession of the preferred drug is generally an offense in itself. Moreover, drug users often are involved in the more aggravated offense of trafficking in illicit drugs. Drug dependency also is much more highly stigmatized than dependence on alcohol, thus a greater social handicap.

Since many offenders who are dependent on drugs are involved in felony crimes and often have extensive prior records they are likely to be tried and sentenced in the superior courts. Still it is far from unusual for judges handling misdemeanants to encounter this problem.

As with alcoholism, there is typically a state agency with expertise in this area, and in most states it serves as a channel through which federal funds for drug education and treatment can be funneled to local drug treatment agencies. The latter may provide direct services and also subsidize private drug treatment programs (see note 2). Drug addicts undergoing treatment may also be eligible for social security grants as disabled persons. As a matter of fact, this proved a key source of funds for a "supported work" program for ex-offenders and ex-addicts in New York City (see "Wildcat" -- Chapter IV).

Methods may include methadone maintenance -- especially for more advanced drug users -- or "drug-free" treatment. As with alcoholism, resources include detoxification centers, longer term residential programs, and out-patient treatment. There are self-help groups similar to Alcoholics Anonymous. An approach intermediate between residential and out-patient is the day treatment program. An example of this is described in Chapter IV.

As with drinking problems, expertise is needed in identifying the drug dependent person, evaluating his drug use and his readiness for giving it up, and guiding the individual into the most appropriate available program.

TASC. Drug dependence is susceptible to treatment, although success is limited, depending on varying characteristics and circumstances of individuals. Three reports were found especially enlightening on this issue in the course of this project.

During the last few years a new federally funded (LEAA) program has been undergoing extensive testing across the country. Its purpose is to identify

drug dependent persons immediately following arrest and arrange for diagnostic and treatment services. Known as TASC*, this is a public agency located administratively within the criminal justice system -- in some instances as a special unit of the county probation department. It recommends arrestees for conditional pretrial release, pretrial diversion, and, where prosecution proceeds, for probation conditioned on participation in recommended treatment programs.

This program is described more fully in Volume 3; page 81; reference material and information sources also are cited for use in considering initiation of a TASC program -- or using it as a model for alternative procedures and arrangements which a probation agency may wish to develop in relation to evaluation and treatment of drug dependent clients.

Psychopathology

Some defendants present the court with a challenge because of serious difficulty in understanding their behavior, associated with indications that they may be dangerous to others or a source of public scandal. A comfortably well-off person is persistently involved in shoplifting. A well thought of, "substantial" family man is charged with sexual advances to a child. A person charged with assault has a history of uncontrollable rages and chronic assaults with little or no provocation. An individual is found time and again exhibiting himself in public.

Criminal justice officials come to a sense of understanding much of the unlawful behavior they encounter. That is, given the background and circumstances of the individual and perhaps the immediate circumstances surrounding the crime,

* Treatment Alternatives to Street Crime

the act, even if reprehensible, is not all that puzzling. But some criminal behavior is grossly "out of character," bizarre, beyond the common man's understanding. It does not seem explainable by reference to economic conditions, family background, acculturation, or compelling provocation or temptation.

Specialists in human behavior, such as psychologists or psychiatrists, usually are able to put such behavior into a perspective which may render it more understandable. They may be able to make a reasonable judgment as to the prospect of repetition, although by no means an infallible one, or the probable effectiveness of some control or treatment measures.

Again, concern here is not with the issue of whether some condition should be treated as a mitigation of culpability. This involves legal issues outside the scope of this study. The focus here is on what the court -- and probation office, if involved -- should do once culpability is established and a particular sentence or some range of sentencing options determined. As with other kinds of problems, the need is for specialized assistance in imposing treatment conditions, determining sources of treatment and, if the defendant is to remain in the community, setting any special behavior limits and supervision level.

Public or publicly subsidized mental health agencies are a standard source of such consultation as well as treatment in some cases. Private practitioners are often used, at court or probation expense, in the evaluation stage, and, where feasible, at the defendant's expense if treatment ensues. Some probation agencies employ full-time clinical psychologists, primarily to assist in evaluation and negotiation of treatment arrangements.

Volunteer professionals may be recruited to provide treatment services for probationers who cannot afford to pay for it and cannot receive services from mental health agencies. Although an unlikely arrangement for a misde-

meanant probation agency, one alternative is direct treatment service by a probation officer with mental health experience and aided by consultation from a professional clinician.

CONtact CENTER

A recently developed national source of assistance in correctional program planning and identification of resources for offender assistance is the American Correctional Association's National Offender Services CONtact CENTER. The center promises to send information directly to offenders or to agencies on a range of treatment, training, and job placement resources and also to supply agencies with information on programs for offenders. Further information on this service can be obtained from CONtact CENTER, P.O. Box 81826, Lincoln, Nebraska 68501.

CHAPTER IV

ALTERNATIVES FOR HIGHER RISK CASES

Expansion of the use of alternatives to confinement entails taking some additional risks. As jail or other residential programs are used less, the proportion of "marginal" cases on probation or in other community programs increases. The court is necessarily concerned with how the behavior of more unstable individuals is to be kept within acceptable limits.

An hour's attention a month from a probation officer looks like token community protection (or client protection) with some young persons involved in drug use, those who are out of school and unemployed, nomads, and persons with a history of repeated thefts or other crimes.

Referrals can be made for educational or training programs, job placement services, mental health or social services but often, with less motivated individuals, these do not lead to much. A program like community service ordinarily occupies the defendant only a few hours a week, and the immature, unskilled, poorly motivated person is not a particularly good candidate for this disposition.

It is possible to develop programs -- not involving confinement -- which will assure that a high percentage of "marginal" offenders will be kept constructively occupied, will be exposed to treatment or training services, and will be kept in close contact with responsible agencies.

There are several such programs presently in operation, successfully handling sizeable numbers of offenders who otherwise might be candidates for jail or prison. These programs vary widely in the kinds of clients served, in program content and structure, and in costs. They are generally more costly than standard probation, but they are either much less or at least not appreciably more costly than jail.

Some examples are described in the following pages. In addition, alternative models are presented of a concept that has been proposed but never, to our knowledge, implemented with adult offenders in the ways suggested here.

Wildcat. Now in its fifth year, a successful "supported work" project in New York City has provided work experience and a chance to earn a living for hundreds of offenders and, for many of them, a route to regular permanent employment. Originated and sponsored by the Vera Institute of Justice, the project goes forward under general management of a private non-profit corporation, the Wildcat Service Corporation. Its objective is to provide employment (six months to about two years) which will prepare the participants for "non-subsidized jobs in industry and government; and to do so through public service activities useful to the community."[1]

This large scale program, about 1,200 participants presently, grew out of Vera Institute experiments with supported work projects for ex-addicts during the early 1970's. The Institute had identified low employability as a key problem of persons who had begun to come to grips with addiction. Unsolved, this problem could mean return to drugs and crime. If overcome, the former addict had a good chance of remaining drug-free and law-abiding.

In addition to former addicts, many of whom are on probation, the program accepts ex-offenders who are not necessarily drug dependent. This includes parolees, work releasees, and discharged prisoners from New York State and City correctional institutions. Many more referrals are made than can be accommodated, but in its second year (1973-74) the program was able to accept three-fourths of the applicants.

The program deals with a difficult group -- most of them with a history of addiction to hard drugs, frequent arrests (average of nine prior arrests and four convictions), limited education (80% less than high school completion),

and poor or no work histories (a selection criterion was less than twelve months' employment out of the previous two years).

The project provides work, some on-the-job training, the support afforded by a peer group, and limited social service assistance with emergency personal problems. In effect, it offers an "opportunity" rather than "treatment" in the customary sense.

Given limited goals and the difficult challenge presented by its clientele, while perhaps not sensational in its achievements, the project was able to report a reduction in arrest rates, relatively little return to hard drug addiction,* and advancement of 40% of participants to non-subsidized work within two years. As to arrests, 41% were arrested during the year before entry into the program and 27% while in the first year of the program -- a 34% reduction. A control group showed a drop in arrests of only 8%.

Most Wildcat work is performed by groups under crew supervisors selected from among participants. Projects are undertaken for City agencies and for private non-profit agencies performing community services. Generally speaking, while badly needed by the agencies, the projects selected in early years would not otherwise have been carried out because of budget limitations. This has changed somewhat over time. For the most part, projects chosen have not entailed skilled work, in view of the participants' limited training and experience. Examples include conservation and clean-up projects, messenger service, fabrication of street barriers, and some clerical projects.

* The project does not claim credit for this. Most participants continued in drug treatment with other agencies while in the program and their good record in drug abstinence was only slightly better than that of a control group not in Wildcat but receiving drug treatment.

Project selection criteria serve to minimize objections from organized city employees, unions, and contractors doing business with the city. There has been little competition with these groups. At the same time the nature of the work does not justify pay levels which might make the program a sinecure for participants. The objective is that, as they become ready, they will move out to regular employment and the increased pay and opportunities this brings.

Efforts are made to contract for a limited amount of more skilled work and for situations where a participant would work as an individual in an agency rather than on one of the Wildcat work crews. These openings afford a transition for participants from ore sheltered, less demanding work situations to the ordinary world of work.

During its first three years, Wildcat was heavily dependent on grants from foundations and federal agencies. It derived only 5% of its funds from contracts with the agencies served during fiscal year 1972-73. The latter had increased to 16% by fiscal year 1974-75 and has continued to go up, as demonstration project funding began to expire. Total funding peaked at $13 million dollars in 1974-75, the last year for most of the grants. It dropped after this and stands at $10.5 million for fiscal 1976-77.

With an average of 1,150 enrollees, this comes to an average annual program cost of $9,130 per participant. Put in this way, the program would appear costly. Actually, a cost-benefit study puts this figure in perspective and indicates that the program is worth slightly more to the community than it costs. The highlight figures are as follows:*

* See pages 124 and 125 in report cited in Note 1.

Figure 3. "Wildcat" Costs and Benefits

Per Participant/Per Year:	
Value of work completed	$6,838
Reduced welfare costs	1,861
Increased taxes paid	364
Savings from crime reduction[a]	
Criminal justice system	102
Crime victims	248
	$9,413
Program costs	9,298[b]
Net value	124
Cost-benefit ratio	1.01

[a] Estimated criminal justice costs per arrest in New York City $1,705. Arrest reductions = .06 per participant per year x $1,705 = $102. Ratio of identifiable victim costs to criminal justice costs estimated at 2.42 to 1.

[b] Average cost per participant was higher in earlier years than that currently estimated and mentioned earlier.

TEP.* This was a program designed to test what might prove a less costly and possibly more effective alternative to Wildcat.[2] The New York City (federally funded) Department of Employment funded this, with the City's Health Services Administration as the host agency. As with the original Wildcat program, participants were drug addicts referred by agencies in which they were undergoing treatment. They were given jobs as community service aides, with a limit of one year guaranteed employment. They were assigned individually and scattered throughout the agency, rather than working in crews as with Wildcat. Their supervisors knew of their drug addiction and were encouraged to help them benefit from the opportunity.

* Transitional Employment Program.

They performed a wide variety of duties: janitorial, clerical, research assistance, pest extermination, and social service. Supervised work experience and on-the-job training aimed at preparing them to find work by the end of the subsidized year.

Preliminary evaluation showed no significant difference in results between this program and Wildcat. Identifiable costs ran about 6% lower, but chances are this difference would have disappeared if data on the overhead costs of the two city agencies had been taken into account.*

Project WORK.+ Differing in program content and administrative arrangements is a project for young men under the supervision of the El Paso, Texas, Regional Probation Department. They would be similar to "Wildcat" participants except that few of them are former hard drug addicts. This is a full-time vocational training and education program for young unemployed probationers who lack job skills, usually are not well motivated, and probably would quit or be expelled from programs serving the general public.[3]

Prospective trainees are initially selected by probation staff, then referred to a private (non-profit) employment counseling and placement agency which specializes in placing people with limited education and work experience. The agency does vocational assessment and guidance, provides training in job search techniques, makes job referrals and placements, and, where needed, provides supportive counseling for young workers getting established in their first job.

Some probationer referrals are placed in jobs, but most go to the training program. Training is offered in rough carpentry, welding, and auto service

* Page 140, report cited in note 1.

+ Willingness, Opportunity, Reward, Knowledge.

and repair. Special classes also are available to prepare students to pass high-school equivalency examinations.

Program capacity is 50, and average training time is six months. The placement agency assists graduates in finding work. During the first year (1974) about eight out of ten of those leaving the program had completed a course; the others were washed out, quit, absconded, or were dropped as a result of probation violation. Data on job placements were not available, but we understand that most of the graduates were employed, if not always in line with the training received.

In this instance an aggressive probation department took the initiative for getting the program started and continues to serve as the coordinating force. The deputy chief probation officer functions as an informal overseer of the program and maintains close liaison with participating agencies. Probation officers supply day-to-day supportive counseling to trainees in relation to behavior problems, motivational needs, and personal problems that may hamper participation. They collaborate with vocational rehabilitation counselors, who are in a position to provide maintenance support funds in some cases, purchase tools needed to take certain jobs, and purchase or arrange for free medical or psychological services.

Cooperation of several state and local agencies was gained in establishing and maintaining the program. The Texas Education Agency provides supplies and equipment. The El Paso school district assigns the instructors (from its adult education program). The Texas Rehabilitation Commission pays for program costs of those trainees who are found eligible for vocational rehabilitation services (a substantial proportion); this takes care of rent for the sizeable building which houses the program. The screening and ancillary services of the private employment agency were previously described.

Full cost data for this program were not available but available estimates indicate per client cost (assuming average six month stay) of about $700.

Project Intercept. This San Jose, California, pretrial diversion program for misdemeanants is described in Volume 3, Chapter 3. The program is used for selected probationers as well as defendants chosen for deferred prosecution. Briefly, it includes psychological and vocational assessment, educational and occupational guidance, tutoring for functional illiterates and candidates for high-school equivalency certificates, and supportive social services, including limited financial help in some cases to aid clients in education or training programs or those getting started as fledgling workers. Referrals for services not supplied directly are made to other community agencies. Advanced education and vocational training are available at the local community college.

Program costs per enrollee (three-month average stay) were running at $488 in 1975-76.

Day Treatment. This is a concept which emerged after World War II as an adjunct to residential care and treatment programs for mentally ill persons. In a way, it is the reverse of such a correctional program as work release -- where the individual goes to the community during the work day and returns to the institution nights and weekends. In day treatment, the mental health patient lived at home, but spent most of the work week in a hospital-based program of occupational, recreational, and other forms of therapy.

The idea was first applied in corrections at the juvenile level with such programs as "the Provo experiment" in Utah and "Essexfields" in New Jersey. These programs served as a substitute for training school commitment. They engaged the youths in daily programs of work, recreation, and group counseling.

More recently this approach has been adapted to drug dependency treatment. There are many examples across the country. Project staff visited one in Baton Rouge, Louisiana, operated by a private corrections agency, the Community Correction and Rehabilitation Center.[5]

This project is designed to serve up to 30 persons. Not all are present at the same time, and actually "day treatment" is a misnomer for some participants. These are clients who work during the day time and take part in center activities during the evening.

At the time of our visit there were 22 active enrollees. Seven were unemployed and were at the center from 8:00 a.m. to 4:00 p.m. Monday through Friday. Nine were employed full time and attended at night. Six were working part-time and had individually arranged schedules for center attendance.

The two-man staff provided coverage from 8:00 a.m. to 10:00 p.m. They did not carry the full burden of services. The agency (which operated several corrections programs) had a psychologist-diagnostician, educational coordinator, a vocational rehabilitation counselor (out-stationed from the state agency), employment placement officers, and maintenance and other staff who could be drawn on for particular services, to lead discussion groups, or to supervise work performed by the full-time (unemployed) clients. Volunteers also were used. Were the program fully self-contained and without volunteers, it appeared that a staff of at least four persons would have been needed. A sizeable facility also would be necessary, although arrangements might be made to conduct the program within such a center as a YMCA. A reasonable annual budget figure for such a program (assuming it had to rent and equip a facility) would be about $80,000. If it operates at capacity (30), daily cost per client would be $7.30 or less than half the cost of a drug-free residential treatment program -- $17.13.[6]

The program itself was rather broad and flexible, combining a mix of individual and group activities. Content and methods varied with the changing composition of the participant group and the special needs and interests of individuals. The goals were to keep people constructively occupied (study, work projects, recreation, counseling, discussion groups); to deal with various specific needs (as through programmed educational courses, guided reading, tutoring, occupational counseling, job placement); and, primarily, to help people examine, understand, and cope with their dependence on drugs. The latter objective was addressed most directly through frequent group discussion sessions, led by staff, volunteers, or by participants themselves. Frequent urinalyses were used as a control measure.

In many ways the program was similar to that of residential drug treatment programs of the "therapeutic community" type -- where the central motif is "group self-help." It is less intensive and for this reason may be more effective for some persons than residential treatment. At the same time it provides a transitional experience for some who have undergone residential treatment and can return to community living only if supported by a comparatively intensive follow-up program.

A day treatment program is not useful at the acute stage of drug detoxification -- which calls for medically supervised care. It is not effective with a person who is not ready to make a genuine effort to give up drugs or one who is so seriously addicted that he can refrain from use only in a confinement setting.

As with any group program, there is the risk that participants will reinforce one another's problems or anti-social attitudes, rather than benefit. Success is heavily dependent on the personal qualities of staff. The tasks of building and maintaining esprit de corps and a socially acceptable orientation

are affected by the composition of the participant group and changes in this as turnover occurs. For this reason program staff should participate in the case selection process and in timing the entry and discharge of participants.

Early experience indicated that participants who did best in the program were those who had become disillusioned with a drug user way of life and were near desperation in the search for something better. Often their motivation occurred in connection with a serious crisis -- examples being the prospect of a prison sentence, a serious health problem, and marriage failure.

"High Structure" Individual Programs. Surveillance in probation and parole has been criticized as of little positive value and an impediment to the "helping" aspect of these programs. As ordinarily practiced it probably does not serve as a significant factor in crime control. To play both policeman and social worker roles toward the same individual is no easy undertaking for most people who come into parole or probation. It is probably even more difficult for most clients to accept the fact that a probation officer who is "spying on" them is really interested in helping them with their problems.[7]

Some agencies have seen fit to dichotomize the two functions, with some staff handling investigative and surveillance tasks and others concentrating on services. Others have, in practice, pretty well dropped surveillance in favor of devoting staff time to assisting clients with their problems.[8]

Robert Martinson has suggested that surveillance be given a "second chance" by providing, in selected cases, for near total surveillance.[9] Law enforcement and intelligence agencies occasionally resort to this expensive practice; it is alien to community corrections (parole, probation) although not to institutional corrections and, to a lesser extent, such hybrid programs as work release. When Massachusetts closed most of its state juvenile institutions, many of the released youngsters were placed temporarily in "one-to-one" situations with volunteer

'advocates." This resulted in quite extensive surveillance, but the advocate's role was defined more as one of offering sympathy and help than of simply overseeing the individual's behavior.[10] Similarly, the Superior Court in Washington, D.C., has a pre-adjudication status for juveniles known as "home detention." Juveniles against whom complaints are filed and who are awaiting court disposition may be accorded this status in lieu of detention. They may remain at home but their activities and mobility are restricted and a probation officer verifies their whereabouts as often as three times a day.[11]

It is possible to conceptualize a model program for adult probationers or parolees which could be adapted to local conditions and tried out in a jurisdiction wishing to pioneer an alternative to incarceration. The problem of possible "over-reach" would be an ever-present one. That is, neither from humanitarian or civil rights standpoints nor considerations of cost effectiveness should such a method be employed, except in cases (and for durations) where it is demonstrable that the defendant would be jailed or imprisoned in the absence of this alternative.

The Models. The nearest approach to cost-effective models, in our present (necessarily tentative) judgment, would be as follows:

A. (Treatment/surveillance model) A special probation unit is established to supervise an average of 50 clients with an average stay in the program of four months. Staff includes one supervisor, one senior journeyman, a clerk, and five surveillance officers. The latter would provide 18-hour coverage of "the field" seven days a week, with two officers on duty about one-third of the time and a total of 178 hours of surveillance a week. This would allow an average per case of about 30 minutes a day or more than 3½ hours a week surveillance activity -- direct observation of the client, telephone contacts with him, establishing and checking with information sources. This amount of surveillance

time per case would represent ten times the amount of attention for all purposes which the average probationer receives in most jurisdictions currently.[12]

The supervisor and journeyman probation officer would share the total caseload on a one (for supervisor) to two basis. They would handle intake (total of about three new cases a week) and provide ongoing services as needed.

The probationers would function under individually specified conditions and would be required to develop and up-date schedules to reflect the nature of their activities and their probable whereabouts and associates for each waking hour (or blocks of hours if a given activity extends beyond an hour). They would have to phone in any significant changes. In other words, the agency should know what they are doing and how to get in touch with them at any time during the week. Where this information could not be provided through a schedule and occasional advance telephone notice, they would be required to phone in with some specified frequency (e.g., every hour, two hours, etc.) to advise as to their whereabouts, activities, and companions, if any.

The function of surveillance staff would be comparable to a "quality control" operation -- determining the evident reliability of client information and investigating known or suspected falsifications or cover-ups. In the process, they would also look into client performance (such as at work, in school or training, or at home or in the community generally). They would arrange with law enforcement agencies for immediate notification of any arrests.

The intake process would include evaluation, guidance, and referral arrangements to help clients develop plans and schedules which would serve to keep them constructively busy and, as needed, engaged at least part of the time in improving their vocational and social skills or working through such personal problems as alcohol or drug dependence, family conflicts, inability to manage financial affairs, etc.

The unit would have funds to purchase consultation services where needed in evaluation and guidance; to subsidize, where necessary, treatment or training services; and to make emergency subsistence grants or loans to clients who are or become stranded.

Ongoing supervision would be a matter of supportive counseling or further guidance and referral as needed. Surveillance reports would be used as a source of clues to a need for counseling or for time or activity changes in the individual's agreed upon schedule.

Any new arrest, absconding, major or recurrent minor violation of conditions would be reported by surveillance officers directly to the court or, if desired, to an intermediate official -- such as the chief probation officer. Where the supervisor or journeman had additional information, or wished to make a recommendation, they would file separate reports. If reports go to the chief, it would be up to him (under court guidelines) to determine when to present the matter to the judge and what action to recommend.

It is unlikely that many individuals could endure this kind of program much more than six months, and the recommended policy would be to exclude those who would appear to need a longer period of such tight control. With a probable "drop-out" or failure rate of 20 to 30% in the first couple of months and some early advancements to routine supervision or discharge, a normal maximum of six months should result in an average stay of about four months for those accepted into the program. Thus an average active caseload of 50 would be maintained with an intake of 150 a year.

B. (Surveillance Model). This would differ from the model described above in two respects. (1) Case evaluation and counseling services would be minimal, and no subsidies or service pruchase would be involved; clients would

be given information about community resources, but it would be up to them to make their own arrangements. (2) At the same time the amount of surveillance would be doubled.

Staff would include a journeyman probation officer, half-time clerk and ten surveillance officers. Average available surveillance time per client would be increased from 30 minutes to about an hour a day or more than 7 hours a week. It is estimated that the average daily cost per client for Model A would be $7.35 and for Model B $9.27.[13]

Comparative Costs

It is of interest to compare cost figures for these alternatives and also to relate them to costs of jail and alternative residential programs, specifically half-way houses, whose residents are prisoners in work release status. This is treated briefly and simply here. More detailed and refined cost comparisons for a wide range of diversionary and post-sentence programs will be found in Chapter III, Volume 5.

Figure 4. Costs of High Structure Programs

Type of Facility or Program	Average Daily Cost Per Participant
Jail	$19.29
Half-way House A[a]	19.57
Half-way House B[b]	13.65
Wildcat	0 ($14.52)[c]
Project WORK	5.38
Intercept	7.75
Day Treatment	7.30
Surveillance	
Model A	7.35
Model B	9.27

[a]A facility staffed to provide counseling, tutoring, training and job placement services.

[b]A facility providing minimal service--comparable to those in an average jail.

[c]The $14.52 figure represents all expenditures for the program. If allowances are made for value of work performed and other benefits, the true cost is zero.

CHAPTER V

ALTERNATIVE CONFINEMENT PRACTICES

An alternative to use of a jail for sentenced misdemeanants is commitment or transfer to a facility with minimum physical constraints and a rehabilitation orientation; that is, where there are activities and services to aid prisoners in solving "crime-related" problems and getting re-established in the community. There are hundreds of settings across the country which might loosely fit this description and which are used for sentenced misdemeanants (and at times felons also). Some of these are minimally staffed, have comparatively high populations (over 100), lack resources for constructive activity, and are primarily custodial in character. While less costly to build and operate and usually less physically oppressive than jails, they represent only a modest improvement over traditional jailing.

This class of institutions includes prison farms, forestry camps, and places variously called rehabilitation centers or correctional institutions. Most of those used for misdemeanants are managed by sheriff's departments, although some state correctional departmens operate such facilities for misdemeanants -- or accept local misdemeanants under a contractual arrangement in camps established for minimum custody felony prisoners.[1] Local corrections agencies, including county probation departments also may administer institutions in this class.

Some such institutions, in addition to work activities, offer educational and vocational classes or tutoring programs, organized recreation, counseling services, and prerelease assistance. Some of the prisoners may be in work or study release programs and furloughs may be used extensively.

It was beyond the scope of this project to go into matters of correctional institution design and program. Other studies have dealt with these subjects.[2] Our interest has been limited to identifying and studying alternatives to incarceration. Reference to various facilitites currently used for sentenced misdemeanants is included, however, to help put certain alternative practices into context. These alternatives have to do primarily with the offender's legal status and involve modifications of incarceration as it has been traditionally practiced. They include:

1. "Voluntary" confinement
2. "Partial" confinement
3. Sentence modification
4. Transitional services

Following dicussion of the two non-traditional forms of confinement, types of facilities often associated with these will be described and illustrated. The third set of practices will be taken up in Chapter VI along with transitional services.

"Voluntary" Confinement

This term does not enjoy currency in the correctional field, such as it does in mental health, nor is the practice quite comparable legally. So long as the quotations marks are used, it is loosely descriptive of a set of practices which represent alternatives to ordinary jail sentences.

Typically, commitments in this class are in the nature of special conditions of diversion, suspended sentence, or probation. Prosecution or a prison or jail sentence is withheld or suspended on the condition that the individual undertake some effort at rehabilitation in a designated residential program (or designated type of program, with the specific facility to be determined

between the defendant and the probation or diversion agency). Since the alternative is jail or prison, the voluntariness on the defendant's part is usually questionable. But the case study leading to the disposition ordinarily includes an assessment of the defendant's apparent willingness to try to resolve his crime-related problem. The court has reason to assume a desire for treatment on the defendant's part.

Voluntary participation ordinarily is involved, in the sense that the treatment facility is not physically secure and in time, if not from the outset, confinement is not total; residents in most of these facilities come and go daily to work, school, and other approved community activities. Privileges may include weekend and at times more extended furloughs for home visits. There is usually also a voluntary aspect to the specific activities and services in which the resident participates; although unless he becomes involved in some way in the program, he may be removed and subjected to court sanctions.

Any of several types of facilities may be used, depending on the nature of the "crime-related" problem(s) to be addressed. Typically, these include alcoholism, drug addiction, some emotional disturbance or psychopathology. "Voluntary" confinement may also be used for youthful offenders or more mature first offenders. Here the problem may not so much involve a need for some specific remediation services -- as a judgment that a jail or prison experience might endanger the individual or be a prelude to a criminal career.

First Consideration. Whatever the reason for such commitments, the assumption here is that a period of confinement is necessary in the case -- as a matter of satisfying justice, sanctioning violation of some lesser penalty, or protecing the community from dangerous or repetitious criminal acts. Such commitments may be used as a matter of protecting an individual from his own

"self-destructive proclivities" -- but it is questionable if this practice fits within the mission of the criminal justice system.

In any event, as with any alternative discussed in these publications, this type of commitment should not be used without full justification and clear purpose. This is even more the case here than with less restrictive alternatives. This one is much more costly for both the community and the defendant. While it represents an improvement in many respects over jailing, it still involves the common hazards of confinement of any sort: reinforcement or inculcation of loyalty ties among chronic offenders (which can lead toward as well as away from further crime); and reinforcement of dependency on artificial structure in order to survive or conform to some behavior standard.

Partial Confinement

"Partial" confinement differs from "voluntary" in that the sentence is to incarceration, whereas, by our arbitrary definition, "voluntary" confinement is a condition agreed to by a person whose legal status is diversion, probation, or "suspended sentence."* Incarceration, in the case of partial confinement, differs from traditional custody in that the offender is confined only part of the time and enjoys freedom to go about the community part of the time. The practice takes three forms: furlough; intermittent (e.g., "weekend") sentences; and work or study release.

Furloughs. A furlough is an authorized absence from confinement for a specific purpose, usually set forth in the authorizing statute, and ordinarily for periods ranging from a few hours to a few days. Common purposes are to attend a funeral or visit a seriously ill relative; a short (e.g., overnight or weekend) family visit in lieu of visits at the jail or prison; to seek employment;

*Admittedly, applying these definitions at times amounts to splitting hairs, since practices usually run along a continuum from truly voluntary to clearly involuntary commitments.

to engage in some community service (e.g., repairing the home of an elderly welfare client or facilities for a children's summer camp); or to attend some community event: recreational, cultural, political, etc.

Furlough decisions ordinarily are made by corrections officials rather than the court. Furloughs represent an amelioration of confinement, modifying the penalty somewhat. They can contribute to maintenance of family ties and to successful preparation for release. From rather extensive data on state and federal furlough programs, the community risk factor appears to be very low.

A furlough program requires staff time for such tasks as screening inmates for reliability; verifying the facts relating to the purpose of the visit; and liaison with community agencies invovled in community service or "events" furloughs. In some instances furloughs may be of a modified sort -- as where a staff member or volunteer escorts a group to a community event or supervises a party of inmate volunteers engaged in a community service project. Persons on furlough to visit their families or seek employment may also be subject to some measure of surveillance by police or parole/probation agencies while in the community.

Organized programs and extensive use of furloughs are more common in state and federal prisons than in local jails for two reasons. (1) Furloughs are considered more crucial for long-term inmates than for most jail prisoners who may be serving only a few days or weeks. (2) State and federal prisons are "geared up" for the tasks involved in carrying on a furlough program. The investigations and other aspects of decision-making can be integrated with the relatively elaborate mechanism used in making many other decisions about inmates. State and federal institutions report extremely high rates of success in use of furloughs -- that is, substantial numbers of prisoners furloughed and very few failures to return or instances of criminal behavior while in the community.[3]

Many jails are ill-prepared to absorb this kind of workload, but given a reasonably well-staffed classification system, a jail could undertake such a program. Small jails should be able to handle it without special staff, since most locally sentenced prisoners would be or could quickly become known to the jailer.

One untried notion -- so far as project staff knows -- would be to combine a furlough program with a weekend jail sentence program. Assuming the numbers were comparable, this could eliminate one of the drawbacks of weekend sentences: the necessity to construct and maintain costly jail space to accommodate "week-enders." In other words, they would occupy space vacated over the weekend by regular inmates who are furloughed.

Another possibility would be to combine weekend furloughs with a work release program for selected inmates housed in a special facility. The occasional inmate forfeiting a furlough could be moved for the weekend to a "seven-day" institution. The special facility could be closed on weekends and operate with a five-day instead of seven-day staff -- with quite sizeable savings in personnel costs. This practice is sometimes followed by residential treatment programs for disturbed youths.

Weekend Sentences. This disposition can be helpful to the offender in terms of both the opportunity to work and to spend time with his family. For the taxpayer such sentences are questionable since they require the availability of expensive confinement space, supervision, meals, etc. for people who probably are no threat to the community. A requirement of community service or weekend public work for the community might be a better alternative.

One of the intangible costs of weekend sentences is the absence of any program for the prisoners. Often they simply sit around idly, gossiping, watching television, playing cards, and in general acquiring a cynical view of

the system. There are exceptions. In Washington, D.C., it is usually possible to accommodate "weekenders" in an oversized work release center operated by the Department of Corrections. At the same time they can be put to work at badly needed yard and facility maintenance tasks. The value of work accomplished offsets care/custody costs; the problem of idleness is minimized; and the offenders are housed in a more benign and less costly setting than the high-security jail.[4]

Work Release. This practice is so widespread as not to require extensive discussion here. Benefits are obvious, both monetary and intangible. The punitive aspect -- night and weekend confinement -- is clear enough. One of the basic issues in use of work release relates to the criminal justice objective of "incapacitation." In this respect it stands midway between parole or probation and 24-hour confinement. There are greater temptations and more opportunities to escape or commit new crimes than are associated with even minimum custody confinement.

Work release tends to involve rather frequent instances of nuisance behavior such as curfew violations and drinking or unauthorized visits during the course of the day. It is not unusual for a fourth or more of prisoners selected for work release to abscond or be removed from the program for cause. The frequency with which work releasees become involved in serious crime varies extensively, but this is reported to be quite low for the majority of programs on which organized data exist.[5]

Several factors enter into the incidence of escape, rules violations, and new offenses: criteria and care used in case selection; constraints, if any, as to work sites; transportation arrangements; nature and extent of services such as surveillance and supportive counseling; level and consistency of rules enforcement.

A member of the project staff, Walter H. Busher, conducted a national study of local work release programs in 1972 and prepared a report containing guidelines in this area. Copies are available from the U.S. Government Printing Office (Ordering Time to Serve Prisoners, LEAA, June, 1973).

A work release program has much to recommend it where a substantial number of misdemeanants are sentenced to jail terms -- especially in terms of more than a few days. Where very extensive use is made of non-confinement alternatives, however, the number sent to jail who would be suitable for work release would be diminished. Suitability of course includes employability (including ability to get one's own job if the program does not include employment placement service); it also includes the necessity of evidence that the offender would not promptly abscond or otherwise get into trouble through new crimes or rules violations.

Something of an alternative to work release is parole or some other form of early release from jail to supervised status in the community. That is, extensive use of these programs will reduce and might almost eliminate the need for work release. This is pursued further below.

Work release programs, wherever possible, should be housed in special facilities, which need not have costly security features. This is dealt with further in the section below on non-traditional facilities.

Study Release. This of course, is a variant of the furlough or of work release. It involves a prisoner's attendance at some educational or vocational program in the community -- usually unescorted. The program could be anything from an institute lasting a few hours to a full course of study in a 2-year or 4-year college.

Operationally, study release is similar to work release -- except that selection criteria and procedures and community contacts relate to the world of education and training for work rather than to employment directly.

A major difference is in costs. Where work release benefits may offset jail costs in the immediate present, the benefits of study release, where realized, are long run -- that is, a more satisfied and skilled worker, diverted from a possible criminal career. In the short run, study release adds significantly to the cost of jailing. The added burden usually does not fall on the criminal justice system. The offender or his family may pay the costs of the educational program. In many instances work-study plans are arranged or scholarships may be earned. Some offenders may be eligible for vocational rehabilitation services, Veterans' benefits, or various Labor Department funded training services -- and study program costs may be borne by these sources.

Typically, study release is not isolated from work release. That is, residents of the same facility may be engaged in either or both of these programs simultaneously and the same staff handles screening, community liaison, supervision, and other necessary tasks.

Non-Traditional Facilities

One difference, in terms of our definitions, between "partial" and "voluntary" confinement is that the former may occur in a multi-purpose detention or correctional institution -- that is, a jail or other custodial facility which houses prisoners awaiting trial or sentenced prisoners who are held in traditional 24-hour custody. Furloughs, work and study release, and weekend confinement are components of a comprehensive program of custody, care, and rehabilitation.

Persons under <u>voluntary</u> confinement, by our definition, would be housed only in non-correctional facilities or in correctional settings specializing in work or study release or other forms of community-based treatment.

There are two general classes of facilities used in connection with these alternative practices. One includes various care and treatment settings, usually operated by non-criminal justice agencies, and specializing in work

with such categories of persons as alcoholics and drug addicts; many if not most residents are not under legal restraint. The other type of facility is a halfway house or community correctional center for persons who are under sentence or some other form of court control as a result of a criminal charge. Many of these are operated by public correctional agencies; even those which are privately managed are dependent on financial support and case referrals from criminal justice.

Specialized Treatment Facilities. These include hospitals, detoxification centers, and various kinds of residential treatment or "recovery" centers for people suffering from social, mental, and serious vocational handicaps. Generally speaking, these facilties lie outside the criminal justice system and serve a mixture of clients -- true "voluntaries" and civil commitments as well as some persons under a penal sentence or suspended sentence. They serve mostly alcoholics, other drug dependent persons, the mentally ill and mentally retarded. There are also some residential facilities operated by or under contract with state vocational rehabilitation agencies; clients often suffer from a mix of problems, but the program focus on trying to help them prepare for jobs and careers, treatment of physical or mental health problems being incidental to this.

Correctional systems may operate special facilities or programs to deal with these problems. Generally speaking, these serve federal or state felony prisoners, not local misdemeanants. In some jurisdictions this may also include persons who are civilly committed to corrections in connection with drug addiction or psychopathology.

Many prisoners in these systems are alcoholic, drug dependent, borderline psychotics, "sexually dangerous offenders," or moderately retarded and for these or other reasons vocationally handicapped. Rather than "warehouse" them until

they serve out their sentences, some correctional agencies attempt to provide specialized rehabilitative services for them either in separate institutions or in special programs within multipurpose correctional institutions.

Few local jails or correctional systems are in a position to parallel the extensive efforts along this line of the federal or large state correctional systems, although many jails do have some specialized services. There is less reason for such programs in jails since offenders with these problems who, in justice, do not merit a lengthy prison commitment might better be provided for in non-criminal justice facilities and programs.

Sources of information about programs and facilities for alcoholics, drug addicts, mentally ill, and vocationally handicapped persons were reviewed in Chapter III.

Effectiveness. The question arises in relation to use of such programs with seriously handicapped people: How effective are they? Some of the references cited in Chapter III provide information on success/failure rates of various kinds of programs. It is not easy to generalize from this. That is, many alcoholics, drug addicts, mentally ill persons, and so on succeed in coming to grips with their problems and go on to lead normal lives. Whether a specific program will help a particular individual to accomplish this at a given point in time is always speculative, although experienced clinicians may be able to offer a reliable prognosis in some cases. From a humanitarian standpoint the odds favor trying such a program, where the alternative is a jail sentence (for which the track record is certainly no better). There is also the long-run consideration that we need to continue trying to develop, test, and make optimal use of measures which not only help individuals but teach us more about the nature and source of human problems associated with criminal behavior.

Less Specialized Facilities. One type of residential facility falls more clearly within the criminal justice system -- even though it is often operated by a private agency. The most common designation for these is "half-way house," although the terms "residential treatment center" or "community correctional center" also are frequently used. With occasional exceptions these are used for persons who are under sentence. For example, a period of residence in such a center may be a condition of probation. Often the facility also houses parolees or probationers charged with technical violations and committed to or allowed to move into the center in lieu of return or commitment to jail or prison. Other residents may be under a jail or prison sentence, but transferred to the center in work or study release status.

Size of these facilities varies, but most serve populations between 15 and 30. The maximum stay often is six months, with average stay, including those removed early for "cause" or other reasons, running about three months.

Programs vary. Some are "treatment-oriented" and seek to modify attitudes of residents and teach them (e.g., through various therapeutic or behavior modification techniques) to change some of their habitual activities, ways of dealing with people, or approach to solving day-to-day problems. Others are more modest in their goals. They provide help in finding work or enrolling in educational or vocational courses and counseling aimed at helping them make decisions or resolve problems which arise in connection with the program.

Some centers may provide tutoring services or organized educational classes as well as counseling. Some may provide no direct services but help arrange these through referral to other community agencies. Still others make no provision for services, leaving the resident to make his own way and simply affording him a decent place to stay until he is free to return home or establish himself independently in the community.

Auspices. Facilities in this class are operated by the Federal Bureau of Prisons, by many state correctional systems, by probation or parole agencies, occasionally by sheriff's or local corrections departments, or by private non-profit agencies. The last named have certain advantages -- greater flexibility in operations and staffing, often a closer identity with non-criminal justice resource agencies, and greater ease in establishing rapport with residents. At the same time they exist precariously, depending on private donations, federal grants, occasional purchase of service contracts with public correctional agencies, and, at times quite heavily, on self-support payments by residents who are working.

Private vs. Public. The spread of privately operated half-way houses for public offenders is to be encouraged. The fact that these are sponsored by boards of local citizens clearly identifies them as community-based programs. Private citizens have elected to become involved in the task of reconciling the offender and his community.

Private programs avoid many of the strictures which attend administration of public agencies. They are free to innovate, have fewer constraints on hiring standards and practices, and tend to attract people with a genuine interest in helping offenders. Tied more closely to the community and not clearly part of "the establishment," they often are more effective not only in relating to program participants but in garnering jobs, training opportunities, and various services for them. The same consideration should assist with the difficult problem of avoiding ejection or bars to establishment of such a facility in a community.

But it has become increasingly difficult, indeed often impossible, to maintain such programs on the basis of private donations, volunteer services, and resident self-support payments. Even with a modest program and marginally acceptable facility, costs are high and must be spread over a comparative handful

of residents. Federal grants usually are for demonstration purposes -- or they may come from programs which come and go with changes in Congress or the federal executive. The only assurance of viability for these programs is subsidization by the public correctional agencies which place offenders in them. This need not be total subsidy, but should cover all costs until a resident is employed and able to start self-support payments. It should finance the daily maintenance of those placed in the facility in other than work release status -- such as those in study release or those undergoing a period of treatment before they may be ready to seek employment. Also needed, where a new facility is to be established, are start-up funds to cover such items as remodeling or refurbishing the facility; down payment if purchase rather than lease is intendend; furniture and other equipment; initial supplies; and staff costs during planning, training, and initial operations stages.

Public correctional agencies often elect not to become involved in such subsidization. They may choose to operate work or study release programs out of more traditional multi-purpose institutions, such as the jail or prison farm. This is not a good practice, but it may be the only available expedient, given budget contraints.[6]

The sheriff, probation office, or local corrections agency may wish to operate its own half-way house or "work release center" rather than subsidize and make use of a private facility. At times this involves a vicious circle. The viability of the private operation is questioned, therefore few residents and little financial support are placed in it. The doubts as to viability may become a "self-fulfilling prophecy." At other times the issue may be lack of trust in the private agency or greater confidence in one's own staff. Such a factor as the availability of a publicly owned building may also enter in, although usually it would be possible to lease or otherwise make this available

to the private agency. Pressure from organized employees, interested in expanded job or career opportunities, is also a factor at times which influences correctional administrators against supporting private half-way houses.

Although these issues must be decided community by community, these comments are provided as background for use in policy and program planning.

Sources of Guidance. More detailed information on half-way houses or community correctional centers is available from a number of sources, notably John M. McCartt and Thomas J. Mangogna, "Guidelines and Standards for Halfway Houses and Community Treatment Centers," LEAA Technical Assistance Report, Washington, D.C., May, 1973. Another useful reference is the Federal Bureau of Prison's publication, "The Residential Center: Corrections in the Community." For a range of half-way house budgets, with varying levels of service and staffing arrangements, an excellent reference source is the ABA Correctional Economics Center's report: Donald J. Thalheimer, "Cost Analysis of Correctional Standards: Halfway Houses," October, 1975. Also of interest is an evaluation study of private and public correctional half-way houses by the General Accounting Office. This was a special report to the Congress dated May 28, 1975, and entitled "Federal Guidelines Needed if Halfway Houses are to be a Viable Alternative to Prison."

Examples. There are so many specialized residential treatment programs, community correctional centers, and correctional half-way houses, and they vary so much in administrative arrangements, size, program, and other factors that it is difficult to select a few for illustrative purposes. An agency considering establishment of such a program would do best to review the reference materials cited above and in Chapter III, then arrange to visit a few centers of the sort envisioned. There would be few jurisdictions from which lengthy travel would be necessary in order to visit several centers representative of more common types. Suggestions as to such site visits could be obtained from local or state

alcohol and drug agencies, the International Association of Half-way Houses, the Federal Bureau of Prisons, the state corrections department, or the director of the state's criminal justice planning agency.

To add specificity to the foregoing discussion, a few centers visited in the course of this study are briefly described -- with no claim that these represent all variations or are necessarily exemplary of their type. We were, however, well impressed with staff and program -- if not always with physical facilities. The latter, incidentally, is a source of as much variation as any other single factor. Half-way house programs generally are not quartered in specially designed and constructed facilities, although there are notable exceptions to this.[8] Most often some existing building is pressed into service or leased. Examples include houses, motels and small hotels, block of rooms in a YMCA hotel, former schools, military barracks, former retail stores, and small office buildings. Sheriff John Buckley of Middlesex County, Massachusetts, operates work and study release programs out of two houses on the grounds of the county jail -- one originally designed for the sheriff's use, the other for the jail's farm manager.[9]

Dade County, Florida. The Florida State Parole and Probation Division operates several halfway houses in various more populous communities. These bear the title: Multiphasic Diagnostic and Treatment Center. One, established in July 1973, occupies a small former office building in a residential/commercial neighborhood in Miami. Two former probation officers serve as director and assistant director; three parole and probation officers provide intake, counseling and referral services, and follow-up supervision upon release to the community. Two parole and probation aides and two clerks serve as night and weekend attendants and assist at other times with secretarial and administrative chores and, in some

instances, with group counseling and case work tasks. The staff also includes a cook, for a total complement of 10.

The facility is designed for 20 residents. It has ample space for minor indoor recreation activities, group meetings, individual counseling sessions, and food service. Most residents sleep in a sizeable dormitory, but smaller rooms accommodating two or three persons, are available as rewards for those who do well in the program. In addition to clients in residence- staff also supervises those returned to the community in probation status. Thus total program capacity would be about 60.

The program serves young adult offenders (18-25) who would otherwise be sentenced to jail or state prison. Typically, the resident was on probation, did not prove amenable to supervision, and was charged with violation.

The program is strongly oriented to a treatment concept. The young residents are expected, under guidance, to identify problems associated with their law-breaking activity and to agree on plans to deal with these. All are expected to work or go to school full-time -- or to work out some combination of work and study. There are nightly group counseling sessions, as well as individual counseling around personal goals and problems. Community agencies and educational institutions are used extensively. Residents who are employed pay $4.00 a day toward program costs. Residents also carry on the maintenance and housekeeping work of the center and assist the cook in food service chores.

A number of measures are used to reinforce counseling efforts and to sanction limits on behavior. These include granting or withholding furloughs, earlier release to the community, greater privacy in sleeping quarters, and extra housekeeping chores. The ultimate negative sanction is referral back to court as a program failure. The latter does not occur often except where the resident is involved in a new criminal offense. During the first year 80% of the residents

succeeded in gaining release to probation status. The program appeared to be inestimably more humane and hopeful than the alternatives: the overcrowded county facility for misdemeanants and the state's equally overcrowded prisons.[10] Assuming 20 residents and 40 on post-release probation, the average daily cost per participant would be about $6.00. Estimated daily per capita cost of the residential phase is about $13.00.

Baton Rouge, Louisiana. The Community Correctional and Rehabilitation Center in Baton Rouge is a private non-profit corporation, which operates several correctional programs. These include a work release facility housing federal, state felony, and local misdemeanant prisoners; residential and day treatment programs for narcotic addicts; supervised pretrial release and diagnostic services for the state and local courts; and a residential treatment program for youthful male first offenders. During our visit in April 1975, there was also a small facility (an apartment) for young women offenders, but the small number of cases led to abandonment of this program.

Most of the programs are operated in a city-owned building leased to the agency for $1.00 a year. This was once a military reserve unit barracks; it is a large two-story building with kitchen and dining room, two large dormitories, indoor recreation and meeting space, and numerous offices. There is also an out-building which serves as a maintenance shop. Surrounding grounds offer an additional resource for development of work projects to which participants in the various programs can be assigned pending completion of full-time work or education plans.

The youthful offender program was started in June 1970. It had 26 participants, aged 17 through 22, in the spring of 1975. They are committed to the program as a condition of probation. The alternative would be a jail or state prison term. The ordinary stay is three to four months, with the release decision

made by the judge on the basis of progress reports, submitted periodically through the probation department.

The program is similar to that in the Dade County center described above. Individual and group counseling are used. Residents participate in policy planning, disciplinary decisions, settling grievances, and orienting new participants through service on elected committees. Extensive use is made of volunteers and student interns. Center residents also receive services from agency staff who serve participants in other programs (vocational rehabilitation counselor, clinical psychologists, drug treatment counselors, employment placement officers, and an educational coordinator).

With exceptions, the resident is confined to the center for the first three or four weeks. He works thirty hours a week in center maintenance, earning $30.00 a week and yielding up $21.00 of this toward his room and board costs. He undergoes rather extensive guidance and evaluation, and then opts for full-time employment in the community, full-time school, or a mixed schedule. Those in full-time school continue to receive the $30.00 a week, retaining $9.00 for expenses and savings. Employed residents pay $28.00 a week from earnings toward room and board. All residents are required to perform some chore work during leisure hours, and it is possible to earn additional funds by performing extra duties.

The program has a behavior modification motif, with residents earning points for satisfactory or better performance and losing them for infractions. Points pay off in earlier and more liberal furloughs as well as, eventually, in earlier release from the program.

Upon release to probation status, participants are jointly supervised by their probation officer and center staff, with the former responsible for surveillance functions and the latter for counseling and any other needed services.

The program had only two full-time staff, a director and assistant director who, between them, were on duty from 8:00 a.m. until 11:00 p.m., Monday through Friday. They were alternately on call over the weekends. Night and weekend supervision was handled by part-time college students. At night one such supervisor divided his time between the youthful offender and work release dormitories.

Because of part-time services from the numerous specialists listed and the continuing responsibility of probation officers, it is difficult to determine the exact cost of this program. There is also the fact that some of the earnings which are returned to the center as self-support payments are acquired through maintenance work performed for the center. Costs may be somewhat lower than in the Dade County program, but probably not appreciably so.[11]

Women's Program - San Diego. The San Diego County (California) Probation Department is a quite comprehensive correctional agency: juvenile diversion, detention, camps, and probation; adult pretrial release and diversion, TASC program, probation, and system of eight institutions for sentenced local prisoners. The latter include six camps and a work release center for men and a multi-purpose facility for women. The Department has an extensive Volunteers in Program program which recruits, orients, and assigns volunteers to the various institutions and community-based activities of the Department.

Many of the adult institution residents have been sentenced to probation with the condition that they serve the first portion (e.g., so many months) in jail (or, in most cases, in one of the Department's facilities). The probation officer is expected to initiate services while the individual is confined, assisting him in making release plans. To facilitate this and to provide services for prisoners who are not released to probation the Department has a staff of prerelease counselors.

The women's facility is called Villa del Sol. It consists of two houses and a small office building on adjacent lots in a middle-class residential neighborhood. There is no physical security, but 24-hour supervision is provided; urinalysis testing is done to discourage introduction of contraband drugs; and there are numerous program features designed to minimize escapes and behavior problems. There is also a selection process -- that is, the facility staff in cooperation with county jail classification counselors determine who will remain in jail and who will be transferred to Villa del Sol. Residents who escape or become unmanageable can be returned to the jail.

The great majority of women sentenced to local confinement are accepted. During a visit in January, 1975, there were 31 women at Villa del Sol and 10 in jail, including some who had very serious detainer warrants against them, others who were currently unemployable because of some health problem, and a few with sentences of only a few days.

The program reflects a strong commitment to a treatment philosophy, but with an emphasis on voluntarism. That is, there are counseling groups; educational, vocational, and job opportunities; tutoring; and other services; but the resident chooses her own activities and services -- subject to staff approval where work release status is involved. Women more seriously concerned about dealing with their problems receive guidance from a correctional counselor and may sign a contract to achieve various relevant objectives. Voluntarism is relied upon also in the form of an elected resident council, chairman of which attends staff meetings and sits as a non-voting member of committees which handle discipline and approve work release status.

Extensive use is made of a variety of community agencies and organizations as well as individual volunteers assigned by the V.I.P. unit. The Urban League has been especially helpful in the area of job and training opportunities. Scholar-

ships and work-study openings have been arranged with community colleges and four-year colleges in the area.

At any one time about a third of the 30 or so residents are in work or study release; another third are in an intermediate program, which involves groundskeeping and other duties in various county facilities and parks under supervision of a correctional officer. The balance of the residents are undergoing orientation, engaged in individual study within the facility, or enrolled in cooks and waiters training in a program sponsored by a communtiy college and carried out by the Villa del Sol chefs.

Stays can vary up to a year and ordinarily would be a minimum of ten days. Average detention time is about three months. At the time of our visit plans were under way to strengthen after-care services, especially for those not being released to probation.

Furloughs are not used as extensively as staff would prefer. Each furlough requires an order by the sentencing judge. The practice is used in more urgent situations.

Basic staff in 1975 included a superintendent, assistant, correctional counselor, eight correctional officers, 1.5 night "housemothers," and a chef for a total of 13.5. Four temporary positions were available, and it was hoped that these could be made permanent.

Direct operating costs were running $22.00 a day per resident. If the facility's pro rata share of the Department's and County's general services is added the total goes to $42.60. If self-support contributions of work releasees and the value of work performed for the county are deducted these figures would be reduced to about $20.00 and $40.00, respectively.[12]

CHAPTER VI

EARLY RELEASE AND TRANSITIONAL SERVICES

Sentence Modifications

A jail's population level is determined by a combination of intake ratio and average length of stay. In the pretrial stage, average stay is determined by the rates of pretrial release, diversion, and discharge and the factor of processing time: (1) how long it takes, on the average, to make and implement decisions on pretrial release; (2) how long it takes to complete prosecution and sentencing, on the average, in cases where the defendant is detained.

With sentenced prisoners the length of stay, theoretically, is predetermined by the terms imposed; the population would be a function of the number committed and sentences imposed. In practice, this is not so. There are numerous ways in which sentences may be modified, including:

> Credit for time served in jail prior to trial or sentence (mandated by law in some jurisdictions -- discretionary with the judge in others).
>
> Time off for good behavior or for performance of work (where authorized by statute -- usually a specified number of days per month).
>
> Reduction or partial suspension of a sentence by the judge. In some jurisdictions the judge retains authority, indefinitely or for a set period, to modify a sentence. In California, for example, this applies where at the time of disposition the judge imposed a jail term as a condition of probation or where he handed down a jail sentence but suspended some part of it.

Parole -- that is, early release under specified conditions and supervision. In many states, authority to grant parole is reserved to the state parole board, which is generally preoccupied with felony prisoners in state institutions and able to give minimal attention to jail prisoners. In some states (Oregon, for example) the sentencing judge is authorized to parole misdemeanants from the local jail. In others the statutes authorize establishment of local parole boards to perform this function. For example, in California this includes representative of the sheriff and chief probation officer and a third member appointed by the Presiding Judge of Superior Court.

Rationales. Allowances of credit for time in custody prior to jail is a compensatory practice; it helps make up for possible unfairness in denying the individual release pending trial or for failure to expedite case disposition.

Good time credits and other forms of sentence reduction or early release often are seen as helpful tools in maintaining institutional discipline and prisoner morale. In the process they help contain jail population -- in the sense that use of these measures is likely to become more liberal when the jail becomes overcrowded. Illustrative of this point was a state law enacted by the California legislature (Section 4024.1, Penal Code) which provided that sentenced prisoners in jails could be allowed ten percent reductions in their terms, up to a maximum of five days. This statute was passed out of concern about mounting jail populations.

Another basis for sentence modification or parole for jailed misdemeanants is the fact that sentences often are imposed on the basis of quite limited information, especially about the background, circumstances, and personal characteristics of the defendant. While he is in jail, staff have an opportunity to come to know him and perhaps his family. New information may indicate that he is less of a problem to the community than the judge may have thought and that justice would

be adequately served, economies would result, and the offender's opportunities to re-establish himself would be enhanced by advancing his release date. Another consideration in some cases is some emergency problem -- illness or death in the family or terminal illness of the defendant, for example -- which justifies a prisoner's prompt release.

At times a judge may have in mind at the outset that he will probably reduce a sentence if certain circumstances favoring this come about. He may place a defendant on probation, conditioned on a six-month jail term, and direct the defendant and probation officer to develop realistic plans related to a particular problem of the defendant -- in the nature of an addiction, family conflict, or unemployment, for example. Once plans are developed and the defendant appears ready to carry them out, as reported by the probation officer, the court may authorize immediate release by reducing the jail term or suspending the unserved portion.

Need for Sentence Relief Measures. If alternatives to confinement are not used extensively, and comparatively frequent use is made of long jail sentences (e.g., six months or more), the jurisdiction faces the prospect of very high jail costs. Jail population level will be high, as will per capita program costs, if standards are met. In this kind of situation, an organized program to optimize use of various sentence reduction or early release practices can be helpful. It might be better, in terms of economic and humanitarian considerations, to consider increased use of alternative sentences. If this is presently not feasible, measures to expedite release can be helpful in containing jail population and costs. At the same time, prisoners can benefit without significant jeopardy to the community.

To provide for a comprehensive set of practices may require legislation (e.g., automatic credit for pretrial time, good time allowances, parole, sentence

dification). Within what the law permits and the courts will entertain, ovision must be made for fair and objective consideration of all eligible isoners. This must be based on explicit policies and criteria for each avail-le form of action that would permit early release. The availability of good me, parole, or sentence modification should be made known and, as needed, sistance given to prisoners in making application. Rules and regulations ould be agreed to and publicized and simple standardized forms devised. The cision-making locus and procedures, of course, should be clearly established.

To assist in developing procedures and to provide needed services to isoners in relation to sentence relief would be important functions of a transi-onal services staff (see next section). These responsibilities might have to be ared. There might be separate parole and court services agencies and, in dition, a jail counseling staff. But agreements should assure not only that steful and confusing duplication of work is avoided but that individual prisoners e not overlooked. Responsibility for the latter would ordinarily rest on jail aff.

ansitional Services

Any period or type of confinement -- whether under the rubric of a jail ntence or residential treatment -- represents a massive intervention in the life the defendant and his family. If he is employed or in school, this may be ruptly terminated and his prospects for re-admission jeopardized. In typical ituations, the individual's financial problems are exacerbated and debts may ile up. Frustration may aggravate family tensions and conflict and lead to the hreat of break-up.

The experience of confinement has other effects, often difficult to predict understand. For some it may represent relief from pressures and responsibilites,

undermining the individual's autonomy and laying the groundwork for weakened future efforts at self-maintenance. For some first offenders, the experience serves to obviate what previously had been an inhibition to more frequent or serious criminal behavior -- fear of jail and of the loss of reputation. Once convicted and jailed, the offender has less to lose in the future. For others -- including some chronic offenders -- confinement is such a painful experience that they deeply resolve to avoid a repetition of the experience.

The problems of social stigma and the practical handicap of a criminal record have a double aspect. These are objective circumstances of life for the ex-offender, affecting in various degrees the attitudes of others toward him and circumscribing in some measure his economic, social, and political opportunities. The other aspect is the subjective one of how he feels about this and reacts to it. Some ex-offenders are demoralized and tend to deteriorate. Some accommodate to a less satisfying life, vocationally and socially, than they might have enjoyed. Others react vigorously and overcome barriers successfully or become involved in causes or political movements aimed at social change.

Another consideration in many cases is that during confinement an effort begins toward solving or learning to cope better with some crime-related condition -- limited employability, alcoholism, drug dependency, and others. Treatment of such problems in a custodial setting, while the only practical approach at times, is a little bit like producing plants in a hot-house; they may not survive when transplanted to a natural environment. Gains made in self-understanding, resolution, new knowledge or skills may be quickly lost upon return to a community where efforts at continued progress instead of being reinforced are discouraged by closed doors to opportunity or continued special services.

Nothing is more wasteful or disheartening than a residential treatment program which gives valuable help to people while confined then discharges them abruptly

with no planning or pre-arrangements for the kind of situation that will assure follow-through on the start which has been made. And a start is all that is possible during confindement. As one veteran state prison inmate put it: "Trying to rehabilitate a person in prison is like trying to resuscitate a drowning man without taking him out of the water."

Kinds of Services Needed. The nature of transitional services required is a matter of course of the particular circumstances and special problems or needs of the individual. With the problem drinker or drug dependent person it may be anything from continuing attention from a concerned volunteer to membership in a self-help organization or outpatient professional treatment. Jobs are a universal need. Housing needs are common. Arrangements to continue with or to begin an educational or training program are frequently in order. Family conflict situations may call for ongoing marital counseling or various other social servcies. Some offenders have no ties in the community; others may have acquired new constructive interests but lack information or contacts to enable them to pursue these after release; help with social and recreational outlets may be needed. Follow-up on health problems which have come to light may be needed. Some releasees are advanced in age and deteriorated; some are unemployable because of disabilities or chronic ailments; there may be a need and eligibility for public welfare services and support.

In addition to longer-range service needs, many releasees, especially those being discharged from a jail sentence, have emergency needs. Some have no funds, no job, and no place to stay locally. They may need temporary maintenance until they can find work and start drawing pay -- or help in traveling to another community where they do have ties. Some individuals are uncertain what they can or should do and may need, mostly, a chance to talk to someone who can help them sort out their thoughts and make some decisions.

Sources of Services. Various sources of help in a community with most of these problems were discussed in Chapter III. In addition there are programs in many communities specifically designed to deal with the immediate post-release needs of prisoners. These include ex-offender organizations, agencies such as the Salvation Army and Volunteers of America, Travelers Aid, half-way houses for temporary residence of stranded ex-offenders, and others.

In addition to resource agencies, however, some mechanism is needed to connect the individual in confinement, or being released, with appropriate sources of emergency help or longer-range service. Various arrangements are possible. Ideally, these should provide for initiation of services before the moment of discharge. The prisoner should have given forethought to what he would be up against and should know where he is going to turn for such help as he may need. The service agency should be aware of him and be prepared to initiate service promptly and with a minimum of red tape and uncertainty.

Several different patterns exist to try to assure prompt and effective follow-up services, where needed, for individuals in confinement or undergoing residential treatment. The individual's legal status and program often determine which arrangement is followed.

Residential Treatment. Specialized facilities for treatment of such conditions as alcoholism and drug treatment should and often do provide for any needed "after-care" service. Some services may be provided on an outpatient basis by facility staff. Where other community sources are to be used, the referral may be made and service begun before release occurs. In addition, the process of release may be gradual, with intermittent furloughs, employment or schooling begun, and normal leisure-time pursuits being followed before final release takes place.

Work/Study Release. These programs should pretty well obviate the need for much in the way of transitional arrangements. Upon release the individual will continue with his job or schooling and with such community activities and services as he had become involved in while in the center. He should have no immediate financial problems -- assuming stable arrangements exist for a study release prisoner to pursue his educational or training program. Single individuals may need some advice in making arrangements for housing, but use of furlough should enable them to take care of the details.

Probation and Parole. Those confined as a condition of probation or selected for parole should be able to look to their probation or parole officer for information, advice, and referral services. This should entail one or more interviews during the confinement period -- depending on length of stay and complexity of problems. Other arrangements may exist to supplement prerelease planning services by parole or probation officers. One would be prerelease services by jail counselors, as described below. Another is where the probation department provides a special release planning staff, as described above in the report on the San Diego women's facility.

Other. Those not covered by these arrangements are sentenced jail prisoners who are not released to parole or probation or selected for work release status. Often these are the most problem-ridden, this being the reason they were excluded from the various special statuses. They include deteriorated alcoholics, drug addicts not approved for community-based programs, older or disabled unemployable persons, and some individuals whose serious prior record or escape history banned them from reduced custody status. Also in this group is a miscellany of persons, with varying problems, who received sentences too short to permit considering them for parole or work release.

Guidance and referral services for this difficult group may be provided in one of two ways. (1) The jail has a counseling staff to interview, classify, and provide emergency service referrals for newly admitted inmates. They may also be involved in pretrial release and diversion screening. In addition to such "intake" work, the staff may operate a prerelease and release referral program for both unsentenced prisoners who are detained beyond the first few days and for sentenced prisoners.

An agency independent of the jail may provide a similar mix of intake and release planning services. One example of this is TASC, although its services are limited to drug dependent prisoners (See Chapter III). A model court and client services agency is described in Volume 5, Chapter 2. This includes both intake and prerelease screening services for defendants jailed, along with presentence services for the courts and supervision of persons on pretrial release, parole, and probation.

A variation of these arrangements is a volunteer program. The sheriff or jailer recruits volunteers to provide a range of activities and services in the jail. Among other things, volunteers may assist prisoners in planning for release and contacting sources of needed assistance (For background and reference material on volunteer programs, see Appendix E).

Still another variation is an arrangement observed in Dade County, Florida, and described below (CORP). In this instance guidance and referral services are provided after release, primarily to ex-offenders with longer-range service needs. The functions of the referral agency are to identify, evaluate, and mobilize (sometimes subsidize) community resources for ex-offenders; to channel released prisoners (and others, such as probationers) to appropriate service agencies; and to monitor service delivery and results. This is not a jail-based service, but

is tied in with the Corrections Department's social service staff and with the jail-based TASC agency.

(2) The alternative arrangement involves greater initiative on the part of community organizations and service agencies. They visit the jail; "advertise" their services through group meetings, posters, leaflets, and word-of-mouth; talk with prisoners requesting interviews; and at times work out arrangements for post-release services as a result of such contacts. Once released, persons with service needs who had not sought interviews in jail may seek out one of these organizations as the reality of their situation comes home to them.

A variation of this approach was observed in San Diego County, California, and is described below (RAP). Here a private agency conducts jail, as well as post-release, interviews; provides emergency services; and, as indicated, refers individuals to other resource agencies for more specialized or longer-term service.

Examples. Arrangements for transitional services are quite varied -- where they exist. Further details on some of the programs already identified are presented below.

CORP.* This public agency was established in 1974 in Dade County, Florida, with financial assistance from the county and state criminal justice planning agencies (LEAA funds). Its purpose is two-fold: (1) to identify, evaluate, support, and expand community resources needed for ex-offender rehabilitation; (2) to screen offenders referred by correctional agencies, or self-referral, and guide them to the most appropriate source of needed services. It also acts as a public information and advocacy agency in behalf of ex-offenders.

It seeks to improve ex-offender access to jobs and training opportunities through a public information effort involving committees on education, employment, voluntarism, and public relations which are manned by business and professional people, governmental officials, and ex-offenders.

* Comprehensive Offender Rehabilitation Program

Staff, assisted by volunteers, identify resources for ex-offender counseling, training, job placement, temporary housing, health, and other services which might contribute to success in gaining or maintaining employment. Offenders seeking help are referred to appropriate sources. Where these are private agencies, CORP has some funds available to purchase needed services and in the process to subsidize agencies which can provide them.

An information system is maintained which tracks all applicants from intake through referral services and is designed to collect follow-up information to determine results of services provided.

The program operates as a division of the County's Department of Human Resources. The budget in 1975 was approximately $300,000. Funds are used for a small agency staff and to purchase half-way house, vocational guidance and training, and other services for clients.

At the time of our visit in the spring of 1975, the program was just getting underway but it held promise of a rational approach to resource mobilization and offender service referrals in a large metropolitan community with a large number of correctional clients.[1]

RAP. The Release Aid Program is an LEAA-funded demonstration project in San Diego County, California. The original grant was obtained in 1973 through collaborative efforts of the Sheriff's Department and Travelers Aid Society of San Diego, with the latter serving as host agency for the program. Project staff have offices in the County Courts building near the entrance to the County Jail. Purpose of the program is to aid discharged prisoners, primarily with immediate emergencies but, often in the process, with such chronic problems as drug dependency, alcoholism, strained family relationships, and unemployment.

The project, in 1975, was under part-time direction of Dr. Mary G. Colacicco, Travelers Aid executive director. Immediate management was by a full-time

ordinator, who supervised a staff of seven full and part-time counselors and leven volunteers. The office was open from 5:00 a.m. to 11:00 p.m., seven days week. Services were advertised throughout the jail by jail staff, posters, and aily visits by RAP staff members, during which they frequently conducted prerease interviews with prisoners.

An indication of the volume and range of services is reflected in a monthly tatistical report (December, 1974). There were 1378 calls for service, an averag f 44 a day. About 900 were short contact visits, requests for information or sistance with transportation home. (The project advanced money for short disnces, costing up to $1.00, and referred those with more costly travel problems the county welfare department).

Another 465 releasees sought more extensive service, usually being seen two r more times to help them complete plans. With these clients the agency could rant vouchers for meals, room, and transportation money to seek employment or to isit some resource agency. Most of these people were referred to one of more han a score of agencies for help with employment, alcohol or drug treatment, ealth problems and other conditions. In more than half of the cases clients cted on the referral and received some assistance with their problems.

Funds and vouchers were advanced from a $12,000 "revolving" fund. In some nstances these grants were repaid by the client -- although at a lesser rate han funds were disbursed -- e.g., outgo in December 1974 was almost $2,000 and epayments about $350 (although in one four-month period repayments averaged 600).

The staff and volunteers represent an interesting mix of backgrounds. They nclude some ex-offenders, some persons chosen because of ethnicity and neighborood rather than formal qualifications, and some professionally trained counselors.

Second year budget (11/1/74 to 10/31/75) totaled $123,610. Counting brief "drop-in" contacts and "repeat" clients the agency should serve about 16,000 persons a year at an average cost of about $7.75, including any vouchers or cash disbursements. It is certainly a humanitarian program, and if experience shows that it serves to divert only a comparatively small number from return to jail -- or even to defer this eventuality in a substantial number of cases -- it should be cost-effective.[2]

Local Parole. Another project which has enjoyed LEAA support is a county parole program in San Francisco begun in January 1973. This was initiated by a newly elected sheriff with a background in criminology and strong interest in community-based corrections, Richard Hongisto. He found that sizeable numbers of prisoners were sentenced to the county jail with other than "jail-probation" sentences. They were serving full terms, then being discharged in most cases without pre- or post-release services of any kind. Available data pointed to a high recidivism rate.

In California, state law establishes parole commissions in each county, consisting of the sheriff, chief probation officer, and a citizen member to be appointed for a one-year term by the presiding judge of the superior court. The boards are empowered to establish rules, grant parole (for a period up to two years), and order re-jailing of parolees who violate conditions.

Because of widespread use of partially suspended jail sentences and probation with condition of jail, a high percentage of prisoners in California jails are eligible for sentence modification by the judge. At the same time, prior to January 1976, such prisoners were not eligible for parole consideration. In counties where such sentences were especially prevalent there probably were relatively few prisoners in jail with substantial sentences who could not gain early release if merited through judicial action -- and not many with sentences

of any length who were parole eligibles. For this reason the parole commissions have been relatively inactive in many counties. In some instances they were convened only to consider release of a prisoner in connection with some serious health problem or family emergency. No special arrangements existed to screen potential applicants or to provide supervision or services. Where such tasks were needed they were performed as an added duty by a deputy sheriff or probation officer.

Because circumstances in San Francisco appeared to justify it, a formal parole program was implemented. Substantiating the evident need was the fact that the number of parole releases soon went from an average of one to fifteen a month and then to an average of 20. This was to increase much more in 1976, as is brought out below.

The program started as almost a one-man operation, staff including a chief parole officer, administrative assistant, and half-time assistant parole officer. Volunteers assisted, however, in sponsorship of parolees and in assisting with referrals to community agencies. Much stress was placed on the latter -- with parole staff seeing its role as screening and evaluating applicants, initial guidance, then referral to an appropriate agency or volunteer sponsor for ongoing services.

The program has experienced substantial expansion. As of fall 1976, total staff included fourteen full-time persons and one half-time. Only the original two and a half positions are presently supported by the City-County out of local funds. Three positions are "CETA" slots; two (vocational counselors) are on an indefinite loan from a local university. The other seven positions are financed by LEAA grants. Six of these are parole aides, and one mandatory qualification for these is a history of conviction of a crime, followed by

evidence of rehabilitation. Preference is given in filling these to individuals who are or have been in the agency's parolee case load.

At the same time the case load and number of monthly admissions to the program have gone up rapidly. Intake has run almost three times as high in 1976 as in 1975. This resulted from a change in the state law on local parole eligibility -- making prisoners eligible who are sentenced to jail and probation -- or who receive partially suspended jail sentences. This change, incidentally, came about as a result of initiatives by local officials and state legislators from San Francisco. The very substantial increase in paroles since the new law became effective attests to the fact that many prisoners who appear to have been ready for early release were not being selected for this under the previously available remedy of sentence modification by the court.

The Parole Commission and its staff assume responsibility for supervision of those parolees who had jail-probation sentences. The City-County Probation Department is relieved of this work, but kept advised of significant developments in each case. Thus the use of parole in these cases has reduced not only jail population but the probation department's heavy case load as well.

As to impact on jail population, at one point in 1976 it was possible to close one wing of the facility used for sentenced misdemeanants -- so that more than marginal savings were made possible. Two evaluations have found that the program is cost-effective; local and LEAA expenditures on the program have amounted to less than it would have cost had the parolees served their full sentences less good time credits. This is based on per capita daily jail costs averaging about $10.00. Using the formula proposed in Volume 5 of this series, however, amounting to $4.00 per day, savings would have been much less. Even so, considering benefits other than jail cost savings, we would agree that this program has been cost-effective.

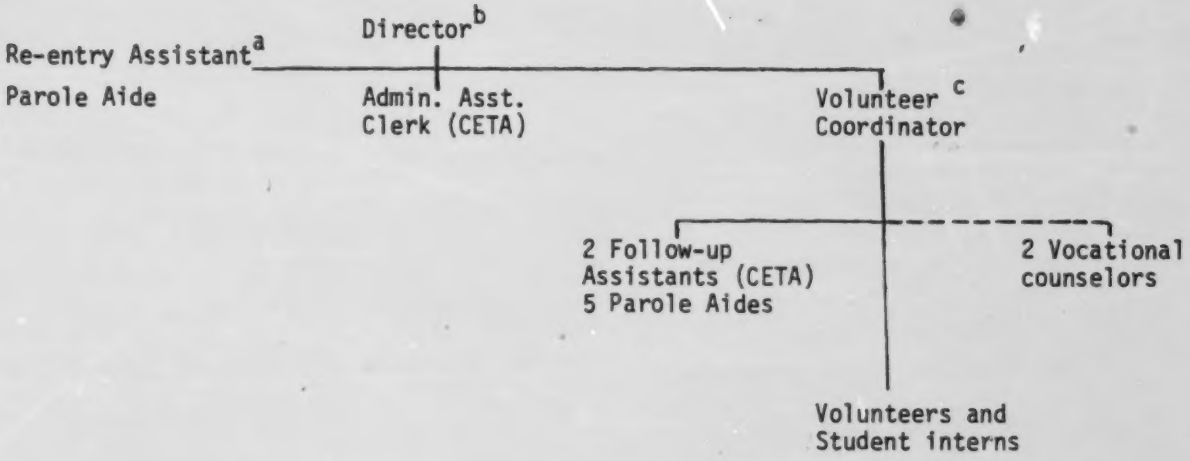
Contributing to cost-effectiveness has been a low rate of parole revocation -- about 12% -- and also low recidivism rates for those paroled. For example, 7% of parolees were convicted of new misdemeanors and 2% of felonies during a follow-up period -- compared to figures of 46% and 4% for a control group. Credit for these sharp differences must go largely to case selection, but some part of the difference is undoubtedly attributable to supervision and services.

More than two-thirds of parolees are referred for services to a variety of community agencies -- for example, residential and non-residential treatment programs for alcoholics and drug dependent persons; medical and psychological services for physically handicapped, chronically ill, or emotionally disturbed parolees; and, in addition, educational, training, or job placement services for most.

Indicative of the initative, commitment, and energy of its founders and chief officials has been their success in expanding services by tapping varied sources of manpower for the program, enlistment of cooperation from numerous community agencies, schools, and employers; and the success of their efforts to change state law on parole eligibility to open up the program to many more local jail prisoners.

Several evaluations have been made of the program. The most recent and perhaps rigorous of these was ABT Associates of Cambridge, Mass. They studied the agency at the behest of LEAA as a result of its nomination for recognition as an "exemplary program." Statements above on cost-effectiveness and recidivism were taken from their report, and it was helpful also in its account of the program's history and its organization and operation as of the spring of 1976. Information also was obtained through correspondence and interviews with Richard G. Zevitz, Executive Secretary to the Parole Commission and director of the program.

As of the fall of 1976, the agency structure could be pictured as follows:



[a]Stationed at San Bruno Jail, where most misdemeanants serving sentences are confined. Functions are to screen population for eligibles; take parole applications; assist applicants to make parole plans; and prepare reports for Parole Commissioners' use in making decisions.

[b]"Central office" staff, housed in an office in the courthouse (pretrial detention) jail.

[c]Supervision and services staff for those paroled. Housed in a field office in an area where many of the parolees live.

Intensive Pre- and Post-Release Service. An unusual example of an integrated treatment program, beginning in the institution and carrying over into the community was developed by the North Carolina Corrections Department. This involves both felons and misdemeanants. (A high percentage of sentenced misdemeanants in North Carolina are committed to State Corrections, which operates a network of comparatively small facilities in the several regions of the State.)

This program is designed for generally less hopeful prisoners in that those considered for it have previously been denied parole and are within a few months of mandatory release. They participate in a four-week group program of prerelease preparation and, in most cases, are then paroled. They are encouraged to take advantage of continuing services from program staff until they have succeeded in re-establishing themselves in the community.

Staff orientation is toward providing service, rather than surveillance and enforcement of parole rules. Violations to date have been very few and only as a result of new charges. There is no strict cut-off period for services, but an effort is made to keep in touch with all releasees for at least a year, as part of a program evaluation effort. The formal parole period is usually about three months, but ranges from a few days to a maximum of four months. Discharge occurs when the original mandatory release date is reached.

One of several programs is located in Charlotte, N.C. The pre-parole group, 25 to 30 members, is housed in an institution on the edge of the city. This is a minimum-security facility with an educational-vocational component, a work release group, and the pre-parole group. The two-man special parole staff (training coordinator and assistant) are housed in a downtown office building, where they have space for group activities as well as individual counseling.

The program runs for about six hours each weekday for four weeks and involves use of audio-visual aids, group discussions, some lectures by community volunteers, role-playing sessions, and individual interviews.

The purpose is to stimulate members of the group to awareness of issues and problems they must do something about if they are going to be able to re-establish themselves promptly and successfully once paroled. Key issues are employment, living arrangements, and such bread-and-butter matters as driving licenses and social security cards. There is also focus on resources available to help with other kinds of problems, such as illness, family conflicts, alcohol or drug abuse, etc.

The two staff members spell each other in group sessions, so that each can also devote time to individual discussion with participants, making referral arrangements, and taking care of administrative matters.

Classes are held for four weeks with one week between classes to permit staff to catch up on follow-up contacts with those released. Each has up to 100 cases in follow-up status at any one time, and those still newly released often require quite a bit of attention.[3]

Subsidies. For many years some correctional leaders have urged that a way be found to make released prisoners eligible for unemployment compensation until they find steady work. Two quite separate experiments suggest that the idea might have merit -- especially for some offender categories -- if there were some way to implement a plan. (This might very well require federal legislation as well as legislation in states wishing to participate; to explore this complex subject was beyond the scope of our project.)

One experiment in Baltimore was known as LIFE (Living Insurance for Ex-Prisoners). This was funded by the U.S. Department of Labor and involved 432 men released from Maryland state prisons to Baltimore from October 1971 to July

1973. Half of the men received subsidies totaling $780 at a maximum rate of $60 a week. (The grants were reduced in accordance with earning levels once the individual was working.)

Subsidized prisoners who had served time for offenses involving theft performed significantly better -- judged by re-arrest rates -- than similar offenders who were not subsidized. There were no significant differences between other types of offenders -- but the theft cases made up about half of the total group. Of additional interest is the fact that subsidies were not a deterrrent to job-seeking. The subsidized group showed a higher employment rate than the non-subsidized.[4]

This project overlapped with a similar one in the San Francisco Bay Area, from September 1972 to May 1973, conducted by the California Department of Corrections through its regional parole office. Funding was by the state criminal justice agency (LEAA funds). It involved 254 state parolees, with approximately half receiving subsidies up to $80 a week for a maximum of twelve weeks.

Again, the subsidized parolees performed better to the extent of 13% -- judged by successful continuation or parole. Moreover, subsidized property offenders performed 28% better than their controls. As in the LIFE project, experimentals also were more successful in maintaining employment.[5]

A rather extensive review of this subject, as it relates to federal and state prison releasees, is provided in a recent monograph published by the American Bar Association's Commission on Correctional Facilities and Services: Robert Horowitz, "Back on the Street - From Prison to Poverty."

CHAPTER VII

SENTENCING OPTIONS: RECAP

To quote one judge who has been involved in this project from an early point as a consultant and member of the advisory resource board: "The judge has an affirmative obligation to seek alternatives to jail in disposing of misdemeanants. There are other and less expensive ways to punish and certainly better ways to salvage these less serious offenders. Although probation services may be needed, they are not always available and rarely so in a sufficient amount. The judge himself should participate in mobilizing community resources and in promoting legislation that may be needed to permit optimal sentencing practices."*

In passing sentence, the judge has, or should have, a wide choice of options resources, and methods out of which to fashion appropriate, individualized dispositions. Further elaboration of the judge's basic disposition is possible in more serious or complex cases, through the subsequent decisions and services of correctional agencies. At times the court and corrections might collaborate in a series of carefully timed decisions -- as when a jail sentence is imposed; the defendant is found suitable and transferred to work release status in a community correctional center; and the judge subsequently suspends the balance of the sentence in favor of a period of time under probation supervision.

Key alternative elements which enter into the sentencing and consequent treatment of misdemeanants can be outlined as follows:

Dispositions

1. Unconditional discharge

* Judge Tim Murphy, D. C. Superior Court, in a telephone discussion of this volume on August 19, 1976.

2. Suspended judgment, suspended sentence, or deferral of sentence

   a. With no special conditions or supervision

   b. With special conditions --

      (1) Defendant on his honor to carry out conditions -- or "paroled" to his counsel.
      (2) Volunteer assists defendant, monitors performance, and reports back to court
      (3) Non-criminal justice agency accepts this responsibility (e.g., volunteer bureau in relation to community service requirement; alcohol or drug treatment agency).
      (4) Probation department is given responsibility to arrange needed services and supervise defendant.

3. Imposition of sentence*

   a. Restitution (lump sum, installments)

   b. Community service or task performance

   c. Fine (see "a" above)

   d. Incarceration

* In connection with restitution, community service, or fine, choice of arrangements for any needed services to defendant or for monitoring his compliance with sentence would follow the pattern in 2b above. Note also that some portion of the sentence might be suspended, contingent on defendant's compliance with general (refrain from further crime) or special conditions.

Special Conditions

1. Restrictions on mobility, associations, or activities (for example type of work or leisure time activity or a habit such as drinking which have in the past inevitably led this defendant into criminal acts).

2. Requirement to report to a designated person or agency, keep them advised of activities and whereabouts, and consider their advice and suggestions

   a. Minimal control (keep monitor advised as to address and of any instance of arrest)

   b. Moderate control (report on regular basis as to residence, work or school, any arrests or any other serious problems; seek and consider guidance of supervisor in relation to major decisions or any crime-related problems)

   c. Maximum control (see programs for high risk cases in Chapter IV).

3. Requirement to participate in some rehabilitation program -- either specified by court or to be agreed to between defendant and designated supervisor (e.g., probation department). Such requirements would vary greatly -- depending on the nature of the defendant's problem and the variety of resources available in the community. Some common examples would include:

    Alcohol or drug treatment

        Residential
        Non-residential

    Employability improvement

        Basic education
        High school equivalency program
        Vocational training
        Occupational guidance, job placement, and related services

    Treatment for "psychopathological" condition such as sexual deviance or mental illness

        Residential
        Non-residential

    Specialized Programs such as courses for drinking drivers or other chronic traffic offenders

    Generalized treatment program, such as those described in Chapters IV and V

        Residential
        Non-residential

Correctional Dispositions -- These are decisions as to defendants who are sentenced to confinement which serve to modify the sentence or alter the defendant's status. In some jurisdictions these decisions might be made by judges rather than parole boards or correctional agency administrators.

1. Time off for good behavior or performance of work (usually of prescribed sorts and at prescribed performance levels).

2. Furloughs

3. Work or study release status

4. Transfer to community correctional center, private half-way house, or other special community treatment facility (often in conjunction with 3).

5. Parole

6. Pre- and post-release (transitional) programs to aid in (re-) establishment in normal community roles.

CHAPTER NOTES

Chapter I

1

Two correctional researchers who have explored the subject of cost-benefit theory and methods have suggested and illustrated application of these to evaluation of correctional methods and programs. Material is included in:

Daniel Glaser, "Routinizing Evaluation: Getting Feedback on Effectiveness of Crime and Delinquency Programs," NIMH Crime and Delinquency monograph, National Institute of Mental Health, U.S. Health, Education and Welfare Department, Bethesda, Md., 1973.

Stuart Adams, "Evaluative Research in Corrections: A Practical Guide," LEAA Prescriptive Package, Law Enforcement Assistance Administration, U.S. Department of Justice, Washington, D.C., March 1975.

The American Bar Association's Correctional Economics Center also has published guidelines for cost-benefit evaluation of correctional programs and has exemplified these in a series of studies designed to cost out the adoption of correctional standards which were urged by the National Advisory Commission on Criminal Justice Standards and Goals. See Note 1, Chapter 3, Volume 5.

2

Detailed information on American jail populations and programs has been published by LEAA on the basis of U.S. Census Bureau studies: "Local Jails: 1970" and "The Nation's Jails: 1972" (published by LEAA in January 1973, and May 1975, respectively).

For later and more extensive information on a large sample of jails see:

Chas. L. Newman, and others, "Local Jails and Drug Treatment," College of Human Development, The Pennsylvania State University, University Park, Pa., February 1976.

A more journalistic and polemical treatment of the subject is:

Ronald Goldfarb, "Jails," Garden City, N.Y., Anchor Press/Doubleday, 1975.

3 New York State law (Section 390.20 -- Criminal Procedure) provides that presentence reports must be ordered before any of the following sentences may be imposed: probation, imprisonment over 90 days, consecutive jail terms aggregating more than 90 days.

4 This is an LEAA-funded project being carried out by a specially developed unit of the Santa Clara County Adult Probation Department. Project title is "Differential Diagnosis and Treatment Program for Adult Offenders." Eventual results remain to be seen, but the concept appears worth emulating.

Chapter II

1 Edwin Powers, "Crime and Punishment in Early Massachusetts," Boston, Mass., Beacon Press, 1966, p. 168 and Appendix A.

2 Joe Hudson, ed., "Restitution in Criminal Justice," (Papers presented at First International Symposium on Restitution in November, 1975 at Minneapolis), St. Paul, Minn., Minnesota Department of Corrections, 1976.

3 Burt Galaway, "Toward the Rational Development of Restitution Programming," In Hudson, supra Note 2, p. 81.

4 Herbert Edelhertz and Gilbert Geis, "Public Compensation to Victims of Crime," New York, Praeger, 1974.

Herbert Edelhertz, "Restitutive Justice: A General Survey and Analysis," Seattle, Wash., Law and Justice Study Center, Battelle Human Affairs Research Centers, January 1975.

Joe Hudson and Burt Galaway, eds., "Considering the Victim: Readings in Restitution and Victim Compensation," Springfield, Ill., Charles C. Thomas, 1975.

Steven Schafer, "Compensation and Restitution to Victims of Crime," Montclair, Patterson Smith, 1970.

Gilbert Geis and Herbert Edelhertz, "California's new crime victim compensation statute," San Diego Law Review, Volume 11, 1974.

5 The reference to negative sanctions related to the use of contracts in the Genesee County, Mich., diversion program known as the Citizen's Probation Authority. See Chapter III, Volume 3. See also Edith Ankersmit, "Setting the Contract in Probation," Federal Probation, June, 1976, Pp. 28-33.

6 The study in question showed that requiring defendants to attend drivers' school produced superior results to any other disposition in a sample of drunk driver cases (7-Municipal Court Review-7, 1967).

Chapter III

1 Interview with Michael F. Hanrahan, Chief Probation Officer, Albuquerque Municipal Court Probation Department, April 1975.

2 For examples of drug education programs for minor drug offenders see California Office of Narcotics and Drug Abuse, "Education, Treatment or Rehabilitation: Drug Offender Diversion Programs in California," Sacramento, Calif., November 1975.

3 Interview with D. C. Superior Court Judge Tim Murphy, May 1975.

4 Science Systems Inc., "Comparative Analysis of Five TASC Programs," Bethesda, Md., June 1974.

George Nash, "The Impact of Drug Abuse Treatment Upon Criminality: A Look at 19 Programs," Montclair State College, N.J., December 1973.

Edward Brecher, "Methadone Treatment Manual," (LEAA Prescriptive Package #2700-00227), Washington, D.C., U.S. Government Printing Office, 1973.

Chapter IV

1 Vera Institute of Justice, "Wildcat: The First Two Years," New York, N.Y., November 1974. Also interviews with Herbert Sturz, Vera Institute Director, in May 1975, and with Carl Weisbrod, Wildcat Director, in July 1976.

2 Ibid., p. 140.

3 Site visit to the training center and interviews with staff. Interviews with Frank Lozito, Director, and Joseph Miscione, Deputy Director, West Texas Regional Adult Probation Department, El Paso, April 1975.

4 Essexfields was a day treatment program carried on by the New Jersey Department of Institutions and Agencies during the 1960's. It was a non-residential adaptation of guided group interaction concepts as developed in the well-known Highfields program. The Provo project was quite similar in operation to Essexfields, except that it was a researched experiment, later described in Lamar T. Empey and Maynard L. Erickson, "The Provo Experiment," Lexington, Mass., D.C. Heath, 1972.

5 The Community Correction and Rehabilitation Center was established in June 1970. Director is William D. Beck, Jr. Project staff visited the agency in February 1975 and had an opportunity to interview all key staff and to obtain copies of descriptive and statistical materials, program rules, etc.

6 As reported in Chapter 3, Volume 5.

7 For a thoughtful discussion and report of a research study in this area see Eliot Studt, "Surveillance and Service in Parole: A Report of the Parole Action Study," Washington, D.C., LEAA, May 1973.

8 As discussed elsewhere in these publications, the El Paso Probation Department (note 3 above) has dichotomized surveillance and service functions. A special parole program in North Carolina has pretty well eliminated the surveillance role for parole officers in favor of emphasis on service. See Chapter V.

9 Robert Martinson, "Restraint in the Community," Unpublished manuscript, 1975.

10 Ibid. See also: Ohlin, Coates, and Miller, "Radical correctional reform: a case study of the Massachusetts youth correctional system," Harvard Educational Review, Volume 44, Number 1, February 1974, Pp. 74-111.

11 Discussion with Judge Tim Murphy, D. C. Superior Court.

12

The time estimates for surveillance in Model A and in ordinary probation are based on the computations below.

Days off, etc.	Surveillance Officer	Regular Probation Officer
Weekends	104	104
Holidays	10	10
Vacation days	15	15
Sick leave	5	5
Training, admin., etc.	12	48
Sub-total	146	182
Surveillance or case work	219	183
Hours per week	33.7*	28.1*

*Divide by cases: 33.7 divided by 10 = 3.37 hours. 28.1 divided by 80 = 0.35 hours.

13

Cost estimates for Models A and B are based on budgets as set forth below:

	Model A	Model B	
Salaries			
Supervision	$15,000	$ ---	
Case Consultant	12,000	12,000	
Secretary	7,000	3,500	(half-time)
5 Surveillance Officers	50,000	100,000	(10)
	84,000	115,500	
Benefits (20%)	16,800	23,100	
Administrative overhead (10% of salaries)	8,400	11,550	
Other			
Rent	3,000	3,000	
Supplies/equipment	4,000	3,000	
Travel	6,000	10,000	
Phone	2,000	2,000	
Consultants	5,000	---	
Services*	5,000	---	
Total	$134,200	$169,150	
Divided by 365 by 50 cases =	7.35		

*Subsidies and service purchases for clients

Chapter V

1

At least 22 state prison systems may accept male misdemeanants into their institutions. Additional states accept female misdemeanants. As to males, practices vary. In some states -- e.g., Illinois and Indiana -- the state operates an institution exclusively for misdemeanants and under ordinary circumstances would not hold a misdemeanant in one of the institutions for felons. In other states there is commingling in less secure institutions but not in the main penitentiary. In still others this distinction is not drawn. In Oregon misdemeanants can be accepted into the state's facility for women and its forestry camp and work release centers, but this requires a contract with the committing county and payment to the Corrections Division for the prisoner's board. (This material based on personal knowledge of project director, supported by review of the American Correctional Association's 1975-76 Directory.)

Using LEAA Census Bureau data from jail and state prison sentences, it is estimated that at most there were 10,000 misdemeanants in state prisons in the winter of 1973-74. In the spring of 1972 there were 60,000 prisoners serving sentences in local jails, the vast majority of whom were under a misdemeanor sentence. More recently, because of severe overcrowding in many state systems, there are probably fewer misdemeanants in them and many felony cases "backed-up" in local jails (for example, according to the Sheriffs of Montgomery and Prince Georges Counties, Maryland, in June 1976, they were holding almost 200 prisoners whom the state system could not absorb).

2

See Note 2, Chapter 1. Also: U.S. Bureau of Prisons, "New Roles for Jails: Guidelines for Planning," 1969 and "Classification for Jail Prisoners," 1971, Washington, D.C., U.S. Governmental Printing Office. The Bureau has developed correspondence courses for jail managers and personnel. Its planning division has had occasion to design and arrange for construction of and program development for new federal detention centers in recent years. Three of these are in operation: Metropolitan Correctional Centers -- Chicago, New York City, and San Diego. Chief source of technical assistance at this time in the area of jail planning and design is the National Clearinghouse for Criminal Justice Planning and Architecture, Suite 200, 505 E. Green Street, Champaign, Ill., 61820 (Frederic D. Moyer, Director).

3 For example, a study conducted in 1973 collected data on use of furloughs and violation rates from 31 states. Median usage was an average of one furlough a year per every two prisoners, with eight states averaging more than one per prisoner per year and one (Vermont) an average of 28. The median violation rate was 2%. For states making the greatest use the practice -- average of about four or more furloughs a year -- the range in violation rates was .2 of one percent to 1.3%. Florida Division of Corrections, Bureau of Planning, Research, and Evaluation, "Furlough Programs - National Survey," November 1973.

4 Interview with officials of D. C. Department of Corrections, May 1975.

5 Based on review of in-house periodic reports and interviews with officials of state and local correctional officials. Such formal research as has been done on work release does not speak clearly to some of these issues. That is, recidivism data relates to post-program outcomes. Failures while in the program are lumped together. See National Institute of Mental Health, "Graduated Release" (NIMH Crime and Delinquency Monograph Series), Washington, D.C., U.S. Government Printing Office, 1971.

6 The problem with operating work release programs in an ordinary jail or correctional institution centers mostly around the problem of contraband. Work releasees come under severe pressure to bring in alcohol, drugs, or weapons to prisoners held in 24-hour custody. This necessitates strict search procedures which are not only time-consuming but a source of staff-inmate friction. The problem is not an insurmountable one, but it is only the "tip of the iceberg." Institutional management and staff tend to be preoccupied with the problems of closer custody prisoners and institutional maintenance. Often they can give only limited and superficial attention to work releasees.

7 Discussions with staff of a corrections labor-management project currently underway in the American Justice Institute under direction of Institute President Richard A. McGee.

8 For example, Florida State Corrections houses a high percentage of its work releasees in specially designed 50-man pre-fabricated buildings which, in 1974, cost about $4,000 per bed. The Oregon Corrections Division, in 1970, commissioned

a trailer company to design and construct a facility for 40 work releasees. Although legal constraints made it necessary to lease this, it could have been purchased for $60,000 or a modest $1,500 per bed.

9 Discussion with Sheriff John Buckley during a meeting in Washington, D.C., June 21, 1976.

10 Interviews with staff of Dade County Multiphasic Diagnostic and Treatment Center operated by Florida Parole and Probation Commission, March 1974 and February 1975.

11 See Note 5, Chapter IV.

12 Interviews with various officials of the San Diego County Probation Department and review of 1973 annual report and various internal reports and descriptive materials.

Chapter VI

1 Interview with Randall Tigett, CORP Director, May 1975.

2 Interviews with Ms. Colacicco and with RAP Director Bill Hopf, January 1975. Reivew of internal monthly statistical reports and of original LEAA grant application.

3 Interview, May 1975, with Ray Hood, Training Coordinator, Prerelease and Aftercare Services Program, Charlotte, N.C. Also review of North Carolina Department of Corrections, "Probation and Parole: Invisible Bars," undated publication, p. 18.

4 Kenneth J. Lenihan, "The Life Project: Some Preliminary Results, Design Questions, and Policy Issues," Washington, D.C., Bureau of Social Science Research, Inc., February 1975. (Report prepared for the Manpower Administration of U. S. Department of Labor.)

5 Craig Reinarman and Donald Miller, "Direct Financial Assistance to Parolees: A Promising Alternative in Correctional Programming," California Department of Corrections, Research Unit, Sacramento, May 1975.

APPENDIX A

SENTENCING LITERATURE

Literature on sentencing is coming full circle. In early eighteenth century Europe and America, criminal justice was characterized by an absence of definition or protection of rights of defendants, extensive use of exile for offenses against the state or community mores, capital punishment for a wide range of offenses including relatively minor property crimes, and, for lesser offenses, wide employment of such physical punishments as branding, multilation, and public whipping. Judicial discretion was relatively unconstrained by constitutional provisions or statutes.

A central figure in reforms introduced from late in the century onward was Cesare Conesana, Marchese de Beccaria -- generally known today as "Beccaria." His urgings related partly to firm, fair, and impartial treatment of defendants -- partly to less barbaric and more rational forms of treatment. He advocated abolition of capital punishment and substitution of fines and imprisonment for physical punishment. He also urged improvements in the conditions of jails and prisons and separation of prisoners on the basis of sex, age, and degree of criminality. Presaging such contemporary views as those of the National Advisory Commission on the Administration of Criminal Justice he advocated use of the least punitive measure appropriate in a given situation.

Treatment of suspects and convicted offenders moved in these directions. The defendant was accorded rights designed to assure a fair trial. The convict was sentenced on the basis of the seriousness of his crime -- based partly on statutory limits, partly on considerations of the degree of culpability. (This was a "post-Beccarian" addition. Beccaria was strongly committed to the doctrine

of deterrence and emphasized sure, swift, and appropriately severe punishment -- appropriate, that is, to the offense, not the offender.)

In the mid-nineteenth century, a new concept was introduced which eventually muddied the waters rather thoroughly. Captain Alexander Maconochie of the British Royal Navy was put in charge of a penal colony on Norfolk Island in Australia in 1940. His prisoners were former English convicts, deported from England, and subsequently convicted of new crimes in Australia, New South Wales, New Guinea, etc.

Maconochie translated sentences into a certain number of "marks." By good conduct, labor, and study the convict could redeem the marks against him and earn an earlier release. The system was akin to the so-called "token economy" systems employed in many American correctional systems during the past 15 or 20 years under the influence of behavior modification theory.

(For this quick review of penological history we have summarized a few highlights of Chapters 21 and 24, Harry E. Barnes and Negley K. Teeters, "New Horizons in Criminology," New York, Prentice-Hall, May 1949.)

The "marks system" led to the evolution of parole and the indeterminate sentence. A third major development emerged in America between the 1920's and 1940's. The burgeoning mental health field, with its new concepts and methods of studying and modifying human behavior, succeeded in altering the administration of parole and the indeterminate sentence -- or at least the avowed principles behind these practices.

Under the classical system (Beccaria), sentences were based on the seriousness of the offense -- modified later, by "aggravating and mitigating circumstances" in the individual case. Under the "marks system," convicts sentenced to prison could earn their way out through conformity and efforts to demonstrate their desire to work and learn. Under the mental health or so-called "medical model,"

both the sentence and the timing of release -- while usually constrained by statutory limits on punishment of the offense proved -- were to be determined by an assessment of the individual's "criminality" and of his "response to treatment."

In the judgment of many contemporary critics the medical model carried us at least part way back to the pre-Beccarian era -- but in a new Orwellian sense. Sensitivity to people's legal rights was lost. Fitting the punishment to the crime began to fade as an objective. The criminal offender was defined, in effect, as a patient -- suffering from one of various illnesses within the broad classification of criminality. His "treatment" (i.e., punishment) was to be based on a diagnosis and would be, in effect, a prescription.

Even if all this were real -- which today is of course widely rejected -- the availability within or outside the criminal justice system of practitioners with the knowledge and skill to implement the concept was not real. The idea was widely bought by legislators, judges, correctional people, and segments of the public. But it was never really carried out. Determinants of who went to prison and how long they stayed continued to be primarily perceptions as to the seriousness of the crime and how well the incarcerated offender behaved himself. There were just enough exceptions to create an atmosphere of unpredictability and lay the system open to charges of arbitrariness and unfairness. Exceptions had mostly to do with prior convictions, other negative factors in the offender's history, or "clinical judgments," often by overworked and undertained prison staff. In other words, the inmate was held in prison, in effect, for offenses already paid for, for alleged behavior not proven legally or at times in any other sense, or for "conditions" perhaps not even susceptible of proof.

The past decade has witnessed a spreading and increasingly vigorous reaction against the abuses into which the indeterminate sentence carried American corrections. Correctional leaders from Norman Carlson, Director of the Federal Bureau of Prisons, to retired California Corrections Director, Richard A. McGee, have expressed their change of heart in recent articles. (Carlson, "The future of prisons," Trial, Volume 12, Number 3, March 1976; and McGee, "A new look at sentencing," Federal Probation, June and October 1974.)

Although increasingly popular among legal critics of our criminal justice and correctional practices, one of the earliest and best articulated objections to depriving people of their liberty in order to "treat" them was presented by Norval Morris in an inaugural address when he assumed direction of the Center for Criminal Justice Studies, University of Chicago Law School, in 1966. (Morris, "Impediments to penal reform," University of Chicago Law Review, Summer 1966, p. 627.)

Contributing to doubts about or repudiation of the "medical model" of criminal justice has been the assessment of research efforts in the field. Interestingly many of the reports subsequently used to discredit or question correctional programs were published originally as evidence of their effectiveness -- or at least as preludes to hoped-for future research which would provide such evidence. One such assessment by Walter C. Bailey, "Correctional outcome: an evaluation of 100 reports," was published in the Journal of Criminal Law, Criminology, and Police Science (Volume 57, No. 2, 1966).

A later, more extensive and widely heralded study, along the same lines, was reported by Robert Martinson, "What works? Questions and answers about prison reform," The Public Interest, Spring 1974, p. 22. A fuller report of this study is contained in Lipton, Martinson, and Wilks, "The Effectiveness of Correctional Treatment -- A Survey of Treatment Evaluation Studies," Springfield, Mass., Praeger, 1975.

Not everyone agrees -- especially correctional officials and practitioners and many judges. Some scholars also hold back, including (at least in 1974) Daniel Glaser of the University of Southern California, one of the leading sociological researchers in the field of corrections. Glaser does not deny the fact that skills and other qualities needed for correctional rehabilitation may be in short supply. But he believes that recent criticism of correctional research findings overlook evidence that particular methods are effective with identifiable offender groups. See Daniel Glaser, "Remedies for key deficiency in criminal justice evaluation research," Journal of Research in Crime and Delinquency, July 1974, pp. 144-154. Glaser is supported by others, including Ted Palmer (See Palmer, "Martinson revisited," Journal of Research in Crime and Delinquency, July 1975, pp. 133-152). (Martinson responded to this article in "California research at the crossroads," Crime and Delinquency, April 1976.)

Much of the recent literature on sentencing philosophy, laws, and practices does seem to start from these premises:

1. Rehabilitation cannot be imposed on people -- and therefore sentences should not be based on what clinicians think can be done with a person in prison or otherwise under coercion to accept treatment.

2. Sentences should be fair and just -- therefore they should be weighed in terms of the seriousness of the offense (back to Beccaria).

Writers tend to diverge from this point. One factor dividing people is the extent to which a propensity for further crime -- especially violent or otherwise quite serious crime -- should affect the sentence. While parting with traditional corrections on sentence augmentation for purposes of rehabilitation, they favor extended sentences as a matter of community protection. But they end up in a dilemma similar to that of indeterminate sentence advocates, because they would

base decisions, essentially, on a prediction of what an individual may do in the future, a task which is found increasingly beyond the skill, if not the claims, of any discipline. It is possible to state statistical probabilities, in some circumstances, for a group of subjects -- for example that 50% of a group will violate parole. The truth is that for some the eventuality of violation is 100% and for others the probability is 100% against violation, but we cannot determine this for particular individuals.

There are some disagreements also on the use of penal confinement. This practice currently is enjoying more popularity among criminal justice scholars than it once did, although the tendency for most is to favor comparatively short sentences. Most would abandon parole, although some urge retention of good time for prisoners (the "marks system" as originally conceived).

Among currently popular works which present particular policies in the area of crime and punishment, are the following:

American Friends Service Committee, "Struggle for Justice," New York, Hill and Wang, 1971.

David Fogel, "We Are the Living Proof . . . . The Justice Model for Corrections," Cincinnati, Anderson, 1975.

Marvin E. Frankel, "Criminal Sentences," New York, Hill and Wang, 1973.

Martin A. Levin, "The Impact of Criminal Court Sentencing Decisions and Structural Characteristics," Washington, D.C., National Technical Information Service, Spring 1973.

Norval Morris, "The Future of Imprisonment," Chicago, University of Chicago Press, 1975.

Herbert L. Packer, "Limits of the Criminal Sanction," Stanford University Press, 1968.

George H. Revelle, "Sentencing and Probation," Reno National College of the State Judiciary, 1973.

Ernest Van den Haag, "Punishing Criminals: Concerning a Very Old and Painful Question," New York, Basic Books, 1975.

Andrew Von Hirsch, "Doing Justice: The Choice of Punishments" (Report of the Committee for the Study of Incarceration), New York, Hill and Wang, 1975.

James Q. Wilson, "Thinking about Crime," New York, Basic Books, 1975.

Jerome H. Skolnick has reviewed Wilson's book critically in "Are more jails the answer?" Dissent Winter 1976, pp. 95-97.

Recent thoughtful law journal papers on sentencing include: M. Kay Harris, "Disquisition on the need for a new model for criminal sanctioning systems," West Virginia Law Review, Volume 77, Number 2, p. 263; and David F. Fisher, "Creative punishment: a study of effective sentencing alternatives," Washburn Law Journal, Volume 14, Number 1, Winter 1975, pp. 57-75.

Various prestigious commissions and organizations have promulgated standards for sentencing or model penal codes. A compilation of these is contained in an LEAA sponsored publication produced by the American Bar Association's Commission on Correctional Facilities and Services and the Council of State Governments: "Compendium of Model Correctional Legislation and Standards," Washington, D.C., American Bar Association, 2nd ed. 1972.

An important new work on what he calls the "deterrence doctrine" (as a more appropriate label than deterrence theory) is Jack P. Gibbs, "Crime, Punishment and Deterrence," New York, Elsevier, 1975. This is a definitive review of the issues in deterrence research, and it includes brief reports of results of numerous studies. It presents a convincing case that there is not as yet an

adequate sociological theory of deterrence and that research to date does not support any particular position as to inclusion of deterrence in sentencing policies.

A briefer but quite thoughtful treatment of many of the same issues is Franklin E. Zimring's "Perspectives in Deterrence" (NIMH Crime and Delinquency monograph, Washington, D.C., U.S. Government Printing Office, January 1971).

Another of the NIMH monographs available through the U.S. Government Printing Office and germane to the issue of legal treatment of law violators is "Civil Commitment of Special Categories of Offenders" (No author listed, 1971).

In relation to the issue of extended sentences for dangerous offenders research to date has produced generally negative results -- that is, we do not have a scientific basis for identifying individual offenders who will probably commit or repeat crimes of violence. John Conrad of the Academy for Contemporary Problems in Columbus, Ohio, is directing an extensive study in this area, out of which reports will be forthcoming over the next couple of years. Two recommended works in this area are:

Hans Toch, "Violent Men," Chicago, Aldine, 1969. (Explores the problems and some methods of trying to identify violent offenders -- that is, people with a propensity for violence.)

Daniel Glaser, "The Violent Offender," Washington, D.C., U.S. Office of Juvenile Delinquency and Youth Development, 1966. (Details the problems and discusses limitations on methods of predicting violent crimes on the part of prisoners being considered for parole. See especially Part VII, pp. 33-37.)

For broader treatment of prediction of criminal behavior and recidivism see:

Frances H. Simon, "Prediction Methods in Criminology," Home Office Research Report, London, Her Majesty's Stationery Office, 1971.

Daniel Glaser, "The Effectiveness of a Prison and Parole System," Indianapolis, Bobbs-Merrill, 1974. (See especially Parts I and IV.)

Trudel, Marcus, and Wheaton, "Recidivism -- A Selected Bibliography," (LEAA, NCJ - 34360) Washington, D.C., U.S. Government Printing Office, 1976.

APPENDIX B

MISDEMEANANT DEFENDANTS: SELECTED CHARACTERISTICS

Misdemeanant Arrestees

The word crime is popularly associated with such offenses as murder, rape, felonious assault, robbery, burglary, kidnapping, arson, narcotics traffic, and various forms of theft. The vast majority of adult misdemeanor arrests are for offenses stemming from family quarrels or support obligations, neighborhood disputes, traffic offenses, public drunkenness and violations of various other regulatory laws and ordinances. There are misdemeanant arrests on charges more commonly classified as "criminal," of course - especially theft (in the form of shoplifting, bad checks, and petty frauds); for prostitution and gambling; and for minor drug law violations. Nationally these add up to only about one out of six adult misdemeanant arrests.*

In a great many jurisdictions the predominant misdemeanant offense is public drunkenness (50% and higher in some communities and 25% nationwide). In recent years driving under the influence of liquor has become a major cause of misdemeanant arrests (again as much as 50% of adult misdemeanant arrests in some jurisdictions; 17% nationally; 35% in California).

There is some relationship between arrest charges and the characteristics of arrestees. The chart below sums up estimates as to selected characteristics of adults arrested for various categories of misdemeanors.

* The figures presented in this appendix were drawn from the following sources: Federal Bureau of Investigation, "Crime in the United States: Uniform Crime Report, 1974," Washington, D.C., U.S. Government Printing Office, 1975; unpublished F.B.I. tables for arrests in 1971 to 1973 by states, offense, and age; California Bureau of Criminal Statistics, "Crime and Delinquency in California," Sacramento, 1973; and special reports from the California Bureau of Criminal Statistics based on statistics generated by an OBTS system in four populous counties in southern California.

Offense Category	% Male	% White	% Under 25	% Over 40
Public Intoxication	93	73	18	50
Drunk Driving	92	82	23	38
Property Offenses	72	64	53	14
All Misdemeanors	83	69	36	30

Public inebriates are primarily males, older, and predominantly white. Much the same is true for drunk drivers, although the offense involves more young adults and an even higher proportion of whites. Arrests for property offenses, on the other hand, more often involve women and non-whites and the majority of arrests are of young persons. Not presented in the chart, but worth noting, is that most women dealt with in the lower courts are charged with such offenses as shoplifting, bad checks, minor drug offenses, prostitution, welfare fraud, and various offenses associated with care of children.

Reduced Felony Cases

In addition to persons arrested for misdemeanors, many arrested for felonies experience a reduction in the charge - either with the filing of the arrest report or the prosecutor's charge or later as a result of plea bargaining or a court initiative. For example, in four southern California counties 40% of felony arrests during 1973 either resulted in a misdemeanor filing or a finding of guilty of a misdemeanor in the process of arraignment in lower court.

Thus courts designed to try and sentence misdemeanants often make dispositions in cases which involved a felony complaint at the point of arrest. This can occur with any category of offense, but is probably most common in less serious drug law cases, felonious assault cases where the consequences were not seen as serious, and property offenses where the value of property involved was not great.

Practices vary a great deal among jurisdictions for many reasons, for example: "over-charging" by police in the judgment of the prosecutor; extensive plea bargaining because of crowded dockets; increased public tolerance, as for marihuana offenses; population levels and other conditions in the state prison system; dissatisfaction with statutory provisions seen as obsolete, such as a dollar figure established decades ago to mark the dividing line between a felony and a misdemeanor.

Felony arrests ordinarily run only about 20% of total arrests, and dropping or dismissal of charges or diversion at times runs high. Thus in most courts of limited jurisdiction reduced felony cases represent a small minority of those on the sentencing dockets. At the same time the individuals involved probably do not stand out as notably different from a great many arrested on misdemeanor charges in the first instance - especially from those arrested for assaults and thefts. Most drug law offenders ultimately handled as misdemeanants are young persons, quite often with little or no other criminal record and frequently from middle class backgrounds.

APPENDIX C

SENTENCE OPTIONS: REPARATIONS

The chart below illustrates an effort to (1) fix a monetary value for a crime; (2) adjust it to the circumstances of an offender without property and with low-earning power; (3) translate the result into different sentence options. Minimal effort was applied to developing estimates, since the purpose is to illustrate a process -- not to suggest actual norms.

The assumed offense was shoplifting of articles worth no more than about $100 (Column 1). Arrest was by store security officers and the stolen articles were recovered. A minimum cost of $100 was assumed for any instance of shoplifting, representing the store's costs for theft insurance and security. Thus, though the stolen property was recovered, a cost of $100 was still involved for the victim. An additional criminal justice cost of $100 was assumed (Column 2). This is one-half of estimated police costs for an average arrest -- one half, since the procedures involved were shared with the store detectives in this instance.

A further assumption is that the maximum fine for this offense in the hypothetical jurisdiction is $1,000 (Column 3). Thus the total assessed value of this crime is $1,200.

Given the offender's impoverished circumstances and the absence of aggravating features in the crime -- the judge determines that the offender should make reparations as follows: 20% restitution to the store or $20.00; 20% compensation to the community or $220.00, for a total penalty of $240.00 (Columns 4 and 5).

The penalty can be imposed in the form of restitution and fine, payable at a rate between $5 and $10 a week. An appropriate level of monitoring, supervision and/or "helping service" would be ordered to insure successful implementation of the sentence, and this would extend over a period of three months to a year, depending on the actual payment rate (Column 6).

In lieu of monetary payments, the court might permit the defendant to perform volunteer services in a community agency. Allowing $3.00 an hour credit for this service, 80 hours would be required -- to be performed at a rate between four and six hours a week (Column 10).

If the court determined that the defendant was incapable of satisfying the $240 obligation through either monetary payments or community service -- because of unwillingness to do so or evidence of gross unreliability -- it might choose a jail sentence. This might be under work release conditions -- with the offender paying $4.00 a day toward the cost of his confinement (Column 8). This would entail a period of 60 days on work release. Here, instead of paying the victim or reimbursing the community for criminal justice or intangible costs -- the defendant, in effect, pays for his own incarceration.

If he is considered too untrustworthy for work-release status, he would serve in total confinement. How long he would serve would depend on the extent of public service he performed as a jail prisoner -- for example, maintenance work connected with jail operations or other county or city maintenance work which a prisoner in medium to close custody status could perform. This could be assessed at some hourly rate -- e.g., $3.00 as with community service. Self-support costs of $4.00 a day would be deducted, so that if he works 40 hours a week, his net earnings would be $92 a week (40 x 3 = 120 - 28= $92) or $13 a day (92 ÷ 7). His minimum period of confinement would be about 10 days. Assuming he performed no work he could be held up to 60 days (based on the standard time associated with work release). (Column 7.)

Such a prisoner might be advanced to work release status, if he appears to be ready for this, and this would affect his confinement time. For example, assume that he serves two weeks and averages 25 hours of work a week. He would have net earnings of $94.00 and thus would owe $146.00 (50 hours of work x $3 = $150 - 14 days x $4.00 - $56.00 = $94.00). To satisfy this balance at the rate of $4.00 a day in work release would take him 36 days -- so that his total time served would be 50 days.

Because of the formula used, the work releasee would tend to serve more time than the prisoner in total confinement, provided the latter performed some maintenance work. This would be equitable, however, since work release is a less intensive as well as potentially less debilitating penalty than ordinary incarceration.

A further arrangement might be included, however, to make work release more attractive. This would be provision for parole, primarily for prisoners in work release status, whenever it appeared that they were ready to complete their payments -- in money or community service -- under supervision in the community. (Column 9.)

Figure 5

Illustration of Alternative Sentences Where Purpose is Reparations

1	2	3	4	5	6	7	8	9	10
Enormity of Offense in Monetary Terms			Total Scaled to Offender's Circumstances		Supervision or Monitoring to Assure Payment or Community Service Performance	Jail Sentence			Community Service at Value of $3.00 per Hour
Costs to Victim	Criminal Justice Costs	Community Costs	Restitution	Fine		Total Confinement	Work Release	Parole	
$100	$100	$1,000	$20	$220	Three months to one year--assuming payment rate of $5 to $10 a week or 4 to 6 hours of community services a week.	Twenty to Sixty days depending on weekly hours of public service work.	Sixty days--assuming self-support payments of $4.00 a day.	Whatever time required to complete balance of obligation at rates similar to those in Column 6.	80 Hours - See Column 6.

APPENDIX D

A MODEL COURT-ORDERED

WORK PROGRAM

Prepared at the Request of
The Volunteer Bureau of Alameda County

BAY AREA SOCIAL PLANNING COUNCIL
364 Fourteenth Street
Oakland, California 94612
Telephone: 835-2300

September 30, 1974

I. INTRODUCTION

A court-ordered work program (CW Program) is a vehicle through which misdemeanants and felons are selectively referred to community service work for a stated number of hours or days. Offenders are placed in volunteer positions with suitable community agencies and are assisted by Program staff in the completion of their assignments. The CW Program provides municipal and superior courts with disposition alternatives to incarceration and/or fines.

The Model CW Program presented here was developed by the Bay Area Social Planning Council (BASPC) at the request of the Volunteer Bureau of Alameda County. The Model was designed to serve as a guide for the development of court-ordered work programs in a variety of communities, with appropriate adaptations to meet local needs. The Model is based on BASPC's knowledge and experience related to volunteer programs in the criminal justice field.[1]

The Model Program consists of four components: Administrative Organization; Program Operation; Staffing; and Finances. The specifics of the Model are described in terms of a core program and include significant elements of an ongoing program. Sample forms and job descriptions are presented in the Appendices.

1/ See the following BASPC reports: Evaluation of the Court Referral Program: July 1, 1972 - June 30, 1973, dated September 28, 1973, prepared for the Volunteer Bureau of Alameda County; and Final Report on Evaluation of a Cluster of Three "Volunteers in Corrections" Projects, dated July 15, 1974, prepared for the California Office of Criminal Justice Planning.

II. ADMINISTRATIVE ORGANIZATION

As a working principle, the exposure to the probation system of participants in a court-ordered work program should be minimized. Therefore, the court work referral service should be housed in a non-probation facility and should be under the auspices of a voluntary instrumentality, such as a Volunteer Bureau. Chart 1 shows the lines of administrative responsibility and lines of coordinative and consultative communication in a CW Program.

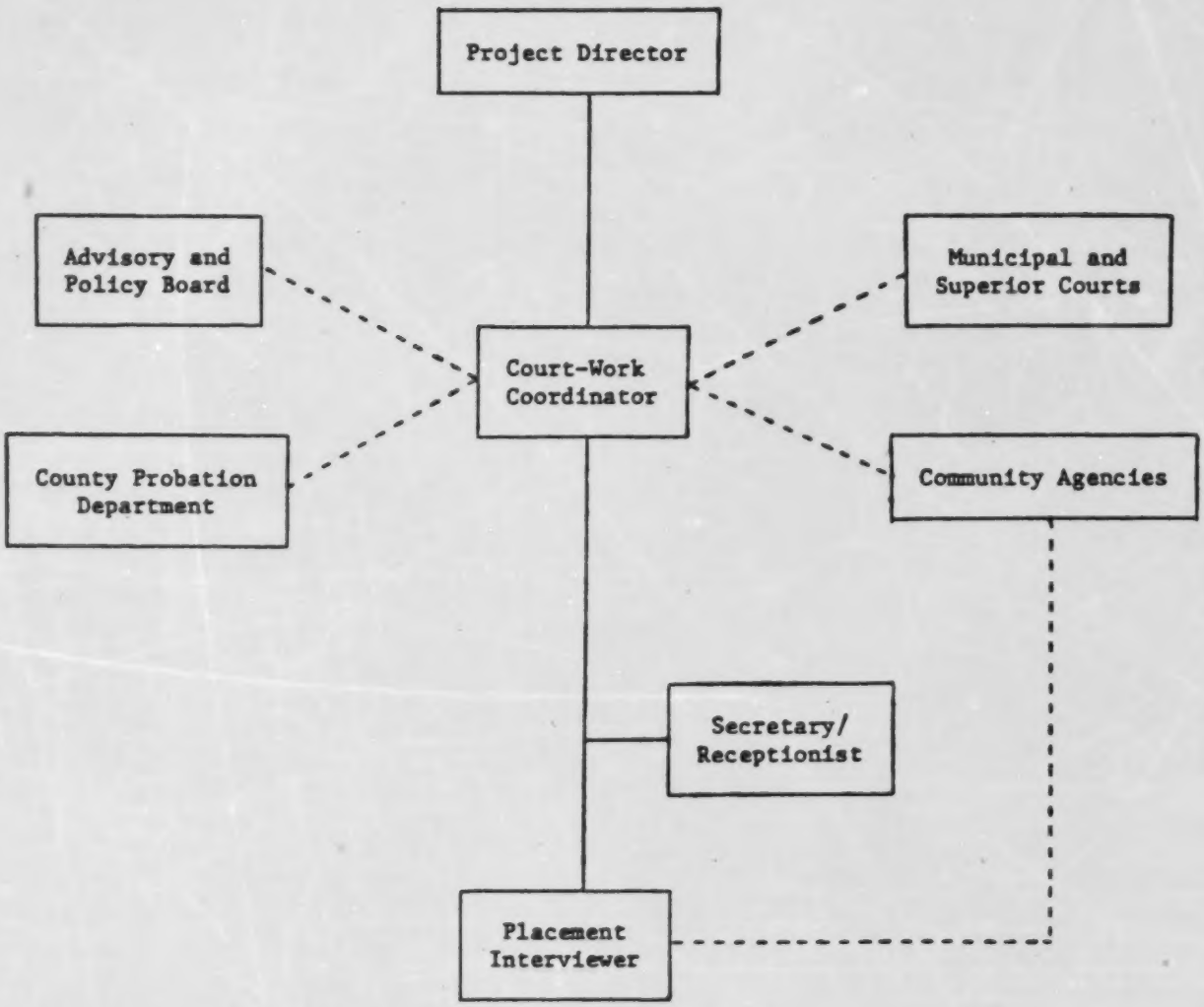
The Project Director should have overall responsibility for and authority over the program and staff. The Court-Work Coordinator should have authority over the Placement Interviewer and the Secretary/Receptionist, and should provide the necessary liaison with the Advisory and Policy Board, the courts, the Probation Department, and community agencies.

Operational Guidelines

- In developing a CW Program, the roles of the Project Director and the Court-Work Coordinator should be flexible and interchangeable so that each may be able to deal with the courts, Probation Department, Advisory and Policy Board, and community agencies in establishing guidelines and procedures for program operations. In addition, the Court-Work Coordinator may also serve as a placement interviewer.
- Given the availability of essential resources and the receptivity to the program of the courts and community agencies, potential program expansion may include additional staffing, i.e., placement interviewers, a bookkeeper, and technical staff for the evaluation of the program; and development of branch offices within the community.

CHART 1

ADMINISTRATIVE ORGANIZATION OF
A MODEL COURT-ORDERED WORK PROGRAM



Lines of Administrative Responsibility

Lines of Coordinative and Consultative Communication

III. PROGRAM OPERATION

The Model CW Program includes four principal phases of program operation: (1) referral of the offender by the Court; (2) intake into the program and placement in an assignment; (3) completion of the hours assigned by the Court; and (4) evaluation of the program. These four phases, including operational guidelines for each phase, are described below.

COURT REFERRAL OF THE OFFENDER

The CW Program has to rely on the courts for utilizing the program as an alternative to incarceration and/or fines. Upon acceptance by the courts of the program as a disposition alternative, further reliance on the courts is necessary for determining an offender's potential for successfully completing a volunteer assignment. Once this determination is made, the judge offers the offender the option of community service. If the option is accepted, the judge sets the amount of time to be served and a date for completion of the assignment. The offender is then placed on court or formal probation and is asked to make an appointment with staff of the CW Program. The Program staff is then notified that the offender has been referred.

Operational Guidelines

- Court work assignments should be available primarily to adult misdemeanants and felons. Exclusion should be based on a history of offenses involving violence, mental or emotional illness, or similar disturbances, unless the relationship with the court work alternative is known to be remedial for a particular individual. In addition, staff should have the option

of refusing placement to anyone deemed unsuitable for the Program.

- Determination of an offender's potential for successfully completing a volunteer assignment should not always depend entirely upon the judge's own determination, but also, where necessary, upon the recommendation of a probation officer.
- Number of assigned hours of work should be related to the type of offense committed.
- Written notification to the CW Program of referral of an offender should be executed with copies for offender and the Court (see Sample Forms 1-3, Appendix A). The Court should make clear to the offender the time frame he has for reporting to the CW Program, as well as the time frame for completion of his assignment.

INTAKE AND PLACEMENT

During the intake interview, the offender is oriented to the CW Program. He is advised that he will be dealt with as a volunteer and that no one, other than his supervisor, will know that he has been assigned through the CW Program. During the initial interview, the offender is screened as to skills, health, availability of transportation and child care, and other factors affecting placement. The CW Program staff then suggests an appropriate placement with a community agency.

The CW Program must rely on community agencies for acceptance of the offender (CW Volunteer) as a volunteer within their agencies. The community agency or organization notifies the CW Program staff of its need for

volunteers and the type of work available. Once the placement is made, the CW Volunteer works in the community agency until he has completed the number of hours assigned by the Court. In some cases, placement in more than one community agency or organization may be necessary to enable the CW Volunteer to complete the hours assigned by the Court.

Operational Guidelines

- Upon written notification that an offender has been referred to the program, CW Program staff should retain the notification on file for one month. If the offender fails to contact the CW Program within this time, the Court should be so informed.
- A registration card (see Sample Form 4, Appendix A) should be completed for each CW Volunteer during the intake interview and an ongoing record of the volunteer's work maintained thereon.
- The CW Program staff should keep a continuously updated file on community agencies utilizing CW Volunteers. Information on these community agencies should include number of volunteers needed, desirable qualifications of volunteers, types of jobs available and length of job assignments (see Sample Form 5, Appendix A). A specific staff member of the community agency must be available to supervise the CW Volunteer during his assigned period.
- The CW Program staff should notify the community agency of the CW Volunteer's placement with its agency during the placement interview. A referral form (see Sample Form 6, Appendix A),

should be executed for the CW Volunteer once the community agency has accepted his placement.

COMPLETION OF ASSIGNED HOURS

While the CW Volunteer works in a community agency on a task appropriate to his skills, records of hours served are kept by both the Volunteer and the agency. If the CW Volunteer fails to report to the designated agency, has a high rate of absenteeism, performs poorly, or fails to meet reasonable expectations in other ways, the CW Program staff attempts to resolve the problem. If resolution proves to be impossible, the CW Volunteer is referred back to the Court.

When the CW Volunteer has worked the assigned number of hours, both the CW Volunteer and the agency notify the CW Program. Upon notification that the assigned hours have been satisfactorily completed, the CW Program staff so informs the Court and the case is closed. If the assigned hours have not been completed by the date set by the Court, the Program staff so informs the Court.

Operational Guidelines

- The CW Program staff should keep a monthly log (Sample Form 7, Appendix A) for CW Volunteers interviewed and placed with community agencies. Information recorded should include, but not necessarily be limited to, CW Volunteer's name, number of assigned hours required by the Court, date of completion required by the Court, name of agency to which CW Volunteer is assigned, date of completion of assignment, and number of hours completed.
- Notification of CW Volunteer's completion of hours assigned

should be based on the Volunteer's completed time sheet (Sample Form 4, Appendix A). Number of hours worked by the CW Volunteer should be verified by a letter or telephone call from the participating community agency to the CW Program, and/or a check with the community agency by CW Program staff.

PROGRAM EVALUATION

The appropriate level of evaluation of a model court-ordered work program is enumeration of participants and services, by type and volume. These data should be summarized periodically and reported to the Project Director, the Probation Department, and the courts (see Appendix B for sample quarterly report).

Operational Guidelines

- The CW Program staff should develop a reporting system, including appropriate forms and reporting procedures; outside consultation should be obtained as necessary and feasible.
- Consideration should be given to the use of survey instruments to obtain evaluative information on the Program from appropriate sources, i.e., clients, agencies, etc.

IV. STAFFING

The following staff complement[1] is based on a CW Program designed to interview and place a minimum of 100 offenders each month in community service activities.

- Professional Staff

The model CW Program operates with a minimum of three professional staff members, as follows:

- Project Director (half-time position): An administrator and program developer, preferably from a voluntary action center or similar organization, with a master's degree; experience in community organization and administration; ability to deal with community agencies, the courts and the Probation Department. Salary: $7,000 per year for an 18-hour work week.
- Court-Work Coordinator (full-time position): A supervisor and coordinator of program activities and staff, preferably with a master's degree in social work or related social sciences; experience in training, counseling, and guidance; ability to deal with community agencies, the courts and the Probation Department. Salary: $12,000 per year.
- Placement Interviewer (full-time position): Should be a college graduate or have equivalent community organization experience. Should be experienced in interviewing and in

1/ See Appendix C for detailed job descriptions.

direct contact with individuals and groups, and have the ability to relate well with people of all ages and ethnic backgrounds. Salary: $9,000 per year.

- Clerical Staff

The professional staff should be supported by one full-time clerical position - a Secretary/Receptionist with a high school education or equivalent, including or supplemented by courses in office practice and skills. She should have ability to relate well to individuals of all ages and ethnic backgrounds. Salary: $6,300 per year.

- Volunteer Staff

In addition to the above staff, qualified volunteers can be given administrative, professional, and clerical responsibilities. Such responsibilities should be clearly identified as supplemental to the program.

V. FINANCES

The following principles related to funding are considered fundamental for the Model CW Program:

- Base support, either through state, county, or local funding, should be available for a minimum three-year period, so that the staff need not be preoccupied with budgetary and survival problems.
- Potential program expansion will require additional staff, technical and other resources, and outside consultation.
- Level of evaluation will depend upon the proportion of the total budget devoted to this activity.
- The ultimate financial support for a CW Program must come from a county government.

A model county-supported CW Program, based on the staffing described in the previous section, should operate on a budget of approximately $56,350 itemized as follows:

Salaries	$39,445
Equipment and Supplies	9,579
Travel	2,818
Consultation and Contractual Services	4,508
Total	$56,350

These budget figures are based on current costs of court-ordered work programs.

APPENDIX E

VOLUNTEERS IN CORRECTIONS

Volunteers will be found in practically all the functional areas discussed in the several volumes of this publication -- pretrial release screening and supervision, diversion, presentence investigation, community service programs, probation, parole, residential programs, and jail. They perform services ranging from transportation and clerical tasks to professional diagnosis, treatment and instruction. Perhaps the most frequent role of volunteers is as one-to-one lay counselors in probation -- although teaching, recreation leadership, and counseling offenders in confinement are also prevalent. (For a fairly recent survey of volunteers in corrections see "Volunteers in Law Enforcement Programs," Washington, D.C., LEAA, 1972.)

Key assumptions about volunteer programs include:

1. They permit more varied, extensive, or intensive services than can be afforded through paid correctional employees.

2. They add to the effectiveness of professional services in two ways: provision of a more personalized relationship than paid staff can offer for certain offenders who need this; practical assistance in integrating the offender with his community, such as job finding, introduction to social groups, acculturation to constructive pursuits, etc.

3. They spread understanding of corrections and its clientele more effectively than public information programs. Associated with this is more advocacy for ex-offenders with community agencies, employers, legislators, and other sources of needed support such as the public information media, service clubs and various other community groups.

One problem arising from these mixed purposes or imputed benefits of volunteer programs is that all of them may be involved in a single program, and objective evaluation is rendered almost impossible. As a matter of fact, one study of 250 books, articles and unpublished reports turned up only ten studies which met the investigators' criteria for research that would aid in policy decisions as to use of volunteers. (Frank P. Scioli Jr. and Thomas J. Cook, "How Effective Are Volunteers?" Crime and Delinquency, April 1976, pp. 192-200.) It is of interest that the 10 studies indicated that the results of volunteer services were at least as favorable as those of paid professionals in terms of recidivism and other measures of program impact on clients.

Another study specifically makes the point that (as with any other program) a volunteer program can only be evaluated in terms of specified, measurable and stable objectives. The authors go on to say that stated purposes at the time of program establishment may not be emphasized in program administration -- or at least in the kind of record-keeping that would facilitate evaluation. For example, most of the programs they reviewed emphasized prevention of recidivism as a central objective, but subsequently administrators justified programs on the basis of evidence that volunteers increased the humanitarian component of their probation services. (Hans W. Mattick and Broderick E. Reischl. "Some Problems in the Evaluation of Criminal Justice Programs," Chicago, University of Illinois, Center for Research in Criminal Justice, September 1975.)

There is a very large number of volunteer programs widely distributed across the country -- for example, 2,000 court volunteer programs with an average of 100 volunteers each (see LEAA study cited in first page of this appendix).

But programs have not been started or may have disappeared in some jurisdictions. In others, officials may have questions as to how their programs compare with others; or they may be seeking guidance on ways to improve a program. In the material which follows, general sources of information are listed and briefly discussed, and the appendix concludes with a rather detailed account of one program visited by project staff.

One source of information and advice on volunteer probation programs is the man to whom much credit is due for the rejuvenation of volunteer correctional programs in recent years -- Judge Keith J. Leenhouts, 44th District Court, 211 Williams St., Royal Oak, Michigan 48067. Judge Leenhouts initiated a volunteer probation program for misdemeanants in 1960. Subsequently he became something of a missionary for the spread of such programs nation-wide, and to aid in this he has developed information and instructional materials which have been extensively used.

A probation program for misdemeanants in Denver combined the features of a professional diagnostic staff and volunteer probation officers. This began in 1966 as an LEAA-funded two-year demonstration project. A research component was included and the reported results indicated that misdemeanants who participated in the program did significantly better than a control group in terms of recidivism. Average time on probation was one year at a cost of $55 (including diagnostic services), compared to professional probation costs (1966-68 period in Colorado) of $250 per case. ("The Use of Volunteer Probation Counselors for Misdemeanants: A Special Demonstration Project," Denver, Colo., County Court, 1968.)

A useful source book for officials interested in starting or considering changes in a volunteer program is"Using Volunteers in Court Settings" by Ivan H. Scheier and Leroy P. Goter. (Funded by the U.S. Dept. of Health, Education and Welfare and published by the U.S. Government Printing Office. Undated but

originally issued between 1968 and 1970.) This is a manual for planning and administering volunteer probation programs. This 227-page volume is quite comprehensive. Among many other things, it deals with the subject of the cost of volunteer services and lays down some bench marks, including these:

> A full-time coordinator is needed (or the equivalent) when volunteers number 75 to 150 and perform about 12,000 hours of services a year. Cash outlays for travel, supplies facilities, and miscellaneous costs will run $500 to $1,000. (Depending on salary level and related expenses for the coordinator, the cost per hour of volunteer service would run about $1.00 to $1.50.)
>
> A small scale program -- 10 to 15 volunteers contributing about 1500 hours a year -- would entail annual costs of $75 to $100 and required time of paid staff at a level costing $500 to $1,000. (These costs are in terms of 1968 dollars, prices and salary rates.)

Companion pieces to this book are two others:

> "Volunteer Programs in Courts: Collected Papers on Productive Programs," Washington, D.C., U.S. Government Printing Office, 1969.
>
> James D. Jorgensen and Ivan H. Scheier, "Volunteer Training for Courts and Corrections," Metuchen, N.J., Scarecrow Press, 1973.

More recent materials include a number of papers and monographs on volunteer programs in corrections emanating from the National Volunteer Parole Aide Program of the American Bar Association's Commission on Correctional Facilities and Services (e.g., "Volunteer Programs in Corrections: A Survey Report," June 1975, "Volunteer Parole Aide: Program History and Status Report," March 1975).

A detailed description and report of an evaluation of a volunteer probation program in Lincoln, Nebraska, is available from the Office of Technology Transfer, National Institute of Law Enforcement and Criminal Justice, LEAA, Washington, D.C. This is "The Volunteer Probation Counselor Program: An Exemplary Program." The evaluation, incidentally, found that high-risk probationers counseled by volunteers showed less recidivism than a control group under regular probation supervision.

A quite comprehensive, large scale, and well-staffed volunteer program was observed during a visit to the San Diego County Probation Department in January 1975. A good description of this and discussion of a number of key issues were included in an annual report for 1973. Excerpts from this are presented below.

> Volunteers in Probation is one of a number of programs in the San Diego County Probation Department which implement the differential treatment concept. The Volunteer program was established by Chief Probation Officer, Kenneth F. Fare in January 1970.
>
> There are now 641 active volunteers. During 1973, 8,010 clients benefited from Volunteers in Probation. Most probationers benefited from direct services such as companionship, counseling, recreation activities, tutoring, etc. About 1,360 clients benefited from indirect services such as financial assistance, professional services, and gifts.
>
> The Volunteers in Probation program serves a large agency in the third largest county of the state of California. The population of San Diego County is 1,460,000. There are 13,929 people subject to the jurisdiction of the Probation Department. A professional staff of 690 supervise 11,192 adult offenders, 1,737 juveniles and operates 12 institutions. The average regular caseload is 60 in juvenile services and 110 in adult probation services. There are a limited number of subsidized casework units which operate with a greatly reduced caseload.
>
> VIP SERVICES:
>
> <u>The goal of Volunteers in Probation is to augment traditional probation services</u>. It is not the intent of the program to have volunteers perform line tasks.

Members of Volunteers in Probation work throughout San Diego County Probation Department in every service: Juvenile, Adult, Subsidy, Institutions, Youth Service Bureaus, Community Day Centers, and the Narcotics Program. Most volunteers work on a one to one basis with clients in an effort to provide highly individualized service.

Key duties performed by volunteers are:

- One to one services such as tutoring, employment counseling, visitation, cultural enrichment or role model. In most instances, however, volunteers work one-to-one with the primary goals of promoting the personal development and rehabilitation of the probationer.

- Unit aides are assigned to casework units to enrich the services by providing visitation, emergency transportation, clerical services, community resource liaisons, or other duties developed by the unit staff.

- Volunteers give instruction in crafts, driving, swimming, crocheting, knitting, yoga, etc.

- Some volunteers are involved in the Outreach Program where they work jointly with their client as volunteers in another agency.

- Other volunteers take delinquents on Wilderness Outings.

- Volunteers serve as co-facilitators in the Narcotics Counseling Program.

- Volunteers take youngsters from treatment facilities on weekend outings.

- Much of the administrative work in VIP is done by volunteers.

- Financial counseling is offered by volunteers.

- Vocational counseling is given by volunteers.

- Community Resources are developed by Volunteers in Probation for use by line staff.

- Volunteers are engaged in differential treatment techniques with subsidy units using the 1-level classification system.

Community groups are involved in providing specialized services to VIP:

- The San Diego County Medical Association, San Diego County Dental Association, and the San Diego County Bar Association

are involved with Volunteers in Probation. Professional persons agree to take one or two free cases per year on referral from Volunteers in Probation.

- Members of Alcoholics Anonymous rehabilitate alcoholic clients on a one-to-one basis and conduct counseling groups.

- The San Diego County Bar Association Auxiliary spearheads the drive to fill Christmas gift requests for clients and their families, contributes funds to VIP Inc., and some members work directly with clients.

- The Sierra Club conducts recreational outings for children.

- The Kiwanis Club of San Diego contributes funds, offers scholarships, and involves members as volunteers.

- Campus Life volunteers engage in religious activities and counseling with youngsters in institutions.

- NYPUM, National Youth Program Using Mini-Bikes, includes adolescent boys in an organized project for the purposes of recreation, teaching responsibility, and highway safety.

- The Southeast San Diego-VIP Section encourages minority participation in Volunteers in Probation.

- United States Navy and the County Schools combined efforts to conduct a six weeks residential vocational training program on a pilot basis in 1973.

CONTRIBUTIONS

Since 1970, 3,200 citizens have contributed 205,196 hours to VIP. The assessed worth of direct and indirect services to the agency in 1973 and from 1970 to date is:

SERVICE	1973	1970 to date
Cash	$ 9,703.00	$40,483.00
Miscellaneous furniture, gifts, appliances, clothing, automobiles, scholarships, motorcycles, rugs, books, musical instruments, etc.	$12,010.00	$23,000.00
Junior League Training Trust Fund	745.00	6,000.00

SERVICE	1973	1970 to date
Christmas Gifts	$ 1,750.00	$ 3,247.00
Tickets (Baseball, circus, theater, basketball, football, ice-skating, roller skating, boxing and other special events).	3,925.00	10,000.00
Professional Services (Medical, dental and legal).	9,000.00	17,050.00
Hours of volunteers service at $3.00 per hour.	$253,461.00 (85,487 hours)	615,578.00 (205,196 hours)
Volunteers out of pocket expenses at $.75 per hour.	64,115.00	153,897.00
TOTAL	$354,709.00	$869,255.00

In 1973 the program cost including salaries and supplies was $89,693. ($1.05 for an hour of volunteer service.)

PUBLIC RELATIONS AND RECRUITMENT

With virtually no formal recruitment, citizens apply to Volunteers in Probation at the rate of about 50 persons per month. People from all walks of life. They include former employees, businessmen, students, military personnel, housewives, and senior citizens. Most prospective volunteers learn of the program from staff, friends actively involved in the program, from instructors, or from organizations in which they are members.

Mass media generally is not used for recruitment purposes. However, publicity recognizing VIP accomplishments does attract a large number of volunteers. There were 31 articles concerning the Volunteer program published in 1973. In addition to local coverage articles concerning VIP appeared in the Vocational Guidance Journal, National Council on Crime and Delinquency VIP News, Volunteer Courts Newsletter, Reachout, and Together. Volunteers and staff made six television appearances in 1973 and gave 57 talks to clubs and classes.

There were 103 out of county inquiries concerning the program in 1973. Requests for information came from all sections of the United States, and from Guam, Canada and Mexico. There were 19 visitors from other agencies.

Audio visual material concerning Volunteers in Probation is available. There is a 15-minute filmstrip for recruitment, a 30-minute film on the Battering Parent Project, and a portable display.

SELECTION OF VOLUNTEERS

Volunteers are screened "In" rather than "Out." Although police, sheriff and probation records are checked an arrest record does not obviate membership. Former offenders contribute much to the program. The applicants attitude and present adjustment not his record, is the final determining factor.

References are sent to three persons named by applicants to VIP. The application is approved when two favorable references are recorded. Negative references are personally contacted and the applicant's limitations explored.

It is found that most people can be effective if they are properly placed. Proper placement is specially important for the marginal volunteer. For example, a volunteer ordered to do work in our agency by a Municipal court was an asset in developing data processing procedures; his recent arrest for drunkness precluded any kind of case contact.

In Special projects some aspects of screening are waived. In most of these projects, the volunteer is closely supervised or the project coordinator is responsible for the selection. Persons who join VIP to provide professional services are not screened.

ORIENTATION

Eleven orientation classes were conducted during 1973. Some were classes for common interest groups, such as the Sierra Club. There were seven regular orientation series.

The five week orientation series for new volunteers is presented in conjunction with the community colleges and adult education. A psychologist and a former probation officer conduct the series. Participatory training techniques are utilized.

The series contains few lectures, and experiential activities prevail. For example, the handling of confidential material is often new to volunteers. Rather than a mere lecture on confidentiality, each class participant is given an envelope with his name on it and a blank sheet of paper inside. He is then asked to write something which he would not like to share with another person. The class is told that the material is confidential. The envelopes are sealed and turned in. Then

confidentiality is discussed from a legal, ethical and emotional vantage. Following the discussion, the envelopes are publicly destroyed. Following this activity, the class seems to have a good understanding emotionally and intellectually the impact of confidentiality.

The basic subjects covered using participatory techniques are: philosophy and organization of the Probation Department, role of the Probation Officer, overview of the volunteer program, counseling techniques, case problems, and the role of the volunteer.

Each volunteer is issued a handbook. It contains materials about the VIP Program, an agency overview, legal data, and other information of value to the volunteer.

VOLUNTEER STATUS

In San Diego County, volunteers are classified as unpaid employees. As such, they have many of the same responsibilities and benefits of paid staff. Liability coverage is extended to unpaid employees. A special personal injury policy covers volunteers while they are performing their duties for the agency. At a cost of $1.50 per volunteer per year, Pacific Indemnity Insurance Company issues personal injury insurance. Coverage limits are: medical expense up to $10,000 (with $500 deductible to be paid by the county of San Diego), dismemberment benefit of $2,000 and death benefit of $2,000.

PROGRAM ADMINISTRATION

VIP is in the Special Services division of the Probation Department. The supervisor in charge of the Volunteers in Probation program reports to a Director I. There are four assistant coordinators (deputy probation officer level) and two clerical assistants. Much of the administrative work in Volunteers in Probation is done by volunteers. For example, a volunteer is in charge of all professional services. He recruits, maintains contact with the professional organizations, and makes individual referrals to the Probation Officers.

Volunteers interview prospective volunteers. The interviewers are trained and their efforts are coordinated by a qualified volunteer.

Each volunteer has a "Team Leader," or "Senior Volunteer," who serves as a liaison with the VIP staff. Each advisor maintains contact with five to twenty-five volunteers. The purpose of the arrangement is to facilitate communication between VIP staff and volunteers. Actual supervision of the volunteer on the job is given by the Probation Officer to whom the volunteer is assigned.

The volunteer project has benefited immensely from the talented volunteers who assist in the administration of the program. Volunteers who show an aptitude and interest in administration are asked to work in the VIP office as "Administrative Aides." Once they have demonstrated their reliability and capabilities, they are "promoted" to positions of leadership. A volunteer in charge of a special phase of the VIP program is called a "Project-Director." For example, "Director of Community Resources" has the authority and responsibility for developing professional services and other community resources. The Project Director is given considerable lattitude in the way he performs his tasks. The directors have been dedicated and extremely successful.

VOLUNTEER ASSIGNMENT

During the interview following completion of VIP orientation, the applicant and interviewer determine the best possible assignment for the volunteer. During 1973, increased emphasis was placed on "Unit Aides" position. Rather than having the VIP staff "match" a volunteer and a client, the volunteer is referred to a casework unit where the supervisor and his staff determines the specific case and type of assignment.

Volunteers prepare quarterly written reports. The Probation Officer supervising the volunteer adds supervisory remarks and retains a copy for the case file. The original is returned to the VIP office for information, statistical purposes and filing.

STAFF VOLUNTEER RELATIONS

Effective staff-volunteer teamwork is vital to a successful program. Continuing efforts are made to promote cooperation between staff and volunteers. The Probation Officer must be comfortable with his role as a supervisor and consultant to volunteers. The volunteer must be receptive and open in the relationship with the caseworker.

Staff volunteer workshops are held periodically to facilitate communication. The Staff-Volunteer Training Committee, consisting of staff volunteers and coordinators, meet periodically to plan meetings. In 1973 the training committee planned and conducted two participatory workshops involving staff and volunteers.

The first workshop of the year involved 100 staff and volunteers. "Building Treatment Teams" was the theme. Fifty volunteers and staff attended a second participatory training program, "Get Into the Act," which was concerned with the introduction of the volunteer to the client.

A member of the VIP staff conducts a two hour orientation for new probation officers concerning the use of volunteer services and supervisory techniques. New staff are most receptive to the concept of volunteer services.

The VIP staff meets regularly with other members of the professional staff to interpret the program. At these meetings, the line staff also give feedback about the operation of VIP.

A handbook, "What you Always Wanted to Know About Volunteers in Probation - A guide for Staff" is issued to each staff member. The booklet answers key questions about the Volunteer program.

"Case Studies - 1972" is a compilation of case studies prepared by volunteers. This material is available to staff.

Some institutions and several unit supervisors conduct regular meetings for their staff and volunteers. Mutual problems and areas of concern are considered. Units using this approach report a high level of success in working with volunteers.

PROBLEM AREAS

Volunteers in Probation requires volunteers to make a nine month commitment. During 1973, 57% of the volunteers completed their obligation to the program. The others dropped before completing their assigned tasks. Most of the volunteers who drop out before completing their nine months obligation are moving from the area, have accepted employment that conflicts with their volunteer activities, do so for personal reasons.

Volunteers who fail to complete their assignments, are a hindrance to the program because the client has difficulty accepting the situation and the staff resents the lack of dedication. It appears that much of the responsibility for the turnover rests with the agency. For example, volunteers can be discouraged by improper matching with a client, indifferent supervision by a Probation Officer, or inadequate feedback. Screening and training methods may also be a factor. A study, nearing completion, will relate dropouts to volunteers personalities, background and their experience to the agency.

Very few serious problems with volunteer personnel developed during the first four years of the program. In 1973, 1% required administrative removal from the program. In almost every instance, volunteers were responsive to staff supervision and used good judgment.

There are shortages of specific types of volunteers. Needed are more men, increased minority representation and recruits from specific geographic areas.

An ongoing problem is the general inactivity of volunteers during the summer months. This presents a problem because young probationers have more free time and need more, rather than fewer, activities.

EVALUATION

Probation Officers with large caseloads are seriously limited in the amount of time they are able to spend with each client. By using volunteers the Deputy Probation Officer is able to amplify contact with the probationer. A recent study revealed that the client is receiving 12½ hours of volunteer services for every hour the probation officer spends supervising him. The amplification of service ratio is 12½ to 1! Clients are receiving considerably more service at minimal cost to the agency.

VIP diversifies treatment strategies available to probation officers. New services, such as recreation, tutorial services, professional care, and instruction are available. One heroin addict on methodone is now employed as a radio technician, earning $800 per month thanks to one year of tutoring by an engineer.

The Volunteer and Probation Officer who worked cooperatively seem to be more helpful than the Probation Officer who works alone. The volunteer-staff treatment team has been successful in a large number of cases.

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